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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,  
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

8801-9000

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *October 3, 1946.*

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BEVERAGES AND BEVERAGE MATERIALS \*

8801. **Misbranding of Esterex (beverage stabilizer). U. S. v. 7 Jugs of Esterex (and 3 other seizure actions against Esterex). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15304, 16040, 16069, 16131. Sample Nos. 20317-H, 20367-H, 22566-H, 22651-H.)

**LIBELS FILED:** Between February 28 and May 11, 1945, Eastern District of Oklahoma and Eastern District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of June 7, 1943, and March 10, 1945, by the C. O. and W. D. Sethness Co., Chicago, Ill.

**PRODUCT:** 7 jugs at Muskogee, Okla., 8 jugs at McAlester, Okla., 8 jugs at St. Louis, Mo., and 9 jugs at Flat River, Mo., each jug containing 1 gallon of Esterex.

Analysis showed that the article was an aqueous solution containing about 19 grams of monochloracetic acid per 100 cc.

**LABEL, IN PART:** "Esterex [or "Cosco Esterex"] \* \* \* Contains Water and (Salts and Esters of Monochloracetic Acid)."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, (portion) "Esterex \* \* \* Beverages With and Containing Esterex \* \* \*

\*See also No. 8958.

When using Esterex no Benzoate of Soda is Necessary. Use  $\frac{1}{2}$  ounce of Esterex to each gallon of bottling syrup. In Root Beer and Cream no acid is needed to stop ropiness if Esterex is used," and (portion), the trade-mark "Esterex" and the label statement "Contains Water and (Salts and Esters of Monochloroacetic Acid)," were misleading since they created the impression that the article was wholesome and suitable for use as a component of food for man, whereas it contained monochloroacetic acid, a poisonous and deleterious substance; and the labeling failed to reveal the material fact that the product contained a poisonous and deleterious substance which rendered it unwholesome and unsuitable for use as a component of food.

**DISPOSITION:** Between June 6 and June 18, 1945, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8802. Adulteration of root beer concentrate. U. S. v. 9 Cases and 9 Jugs of Root Beer Concentrate. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15737, 15738. Sample Nos. 11227-H, 11440-H.)

**LIBELS FILED:** March 22 and 23, 1945, District of New Hampshire and District of Massachusetts.

**ALLEGED SHIPMENT:** On or about January 9 and February 23, 1945, by the Citrus Products Co., from Chicago, Ill.

**PRODUCT:** 9 cases, each containing 4 1-gallon jugs, and 9 1-gallon jugs of root beer concentrate at Manchester, N. H., and Fall River, Mass., respectively.

**LABEL, IN PART:** "Kist Beverages Root Beer Creamy Top Beverage Concentrate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, boric acid, which was unsafe within the meaning of the law since it was a substance not required in the production of the food, and it could have been avoided by good manufacturing practice.

**DISPOSITION:** May 7 and 9, 1945. No claimants having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8803. Adulteration and misbranding of beverage bases. U. S. v. 27 Cases of Beverage Bases (fruit flavored sirups). Default decree of condemnation. Products ordered distributed to charitable institutions.** (F. D. C. No. 15740. Sample Nos. 6610-H to 6615-H, incl.)

**LIBEL FILED:** On or about March 27, 1945, District of Connecticut.

**ALLEGED SHIPMENT:** On or about July 11, 1944, by the Ol' South Extract Co., from Rochester, N. Y.

**PRODUCT:** 27 cases, each containing 24 1-pint bottles, of beverage bases at Ansonia, Conn.

**LABEL, IN PART:** "Ol' South Strawberry [or other flavors]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), artificially flavored and artificially colored acidulated beverage sirups had been substituted in whole or in part for fruit-flavored sirups.

Misbranding, Section 403 (a), the statements on the labels of the products, "Strawberry [or "Raspberry," "Grape," "Cherry," or "Loganberry"] A Fruit Flavored Syrup \* \* \* Contains: Strawberry [or other flavors] Citric Acid, Cane Syrup, Water," and "Punch A Pure, Fruit Flavored Syrup \* \* \* Contains: Grape, Cherry, Raspberry, Strawberry, Citric Acid, Cane Syrup, Water," were misleading as applied to artificially flavored and artificially colored acidulated beverage sirups; and, Section 403 (k), the products contained artificial flavor and artificial color and failed to bear labeling stating that fact.

**DISPOSITION:** June 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

**8804. Adulteration and misbranding of beverage bases. U. S. v. 2,342 Cases of Beverage Bases (and 1 other seizure action against beverage bases). Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 15748, 15749. Sample Nos. 30918-H to 30929-H, incl.)

**LIBELS FILED:** March 28, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about November 5 and 22, 1944, by Holler's Concentrated Beverages, from Miami, Fla.



**PRODUCT:** 2,582 cases, each containing 48 bottles, of beverage bases at Los Angeles, Calif.

**LABEL, IN PART:** "Holler's Orange [or other flavors] Flavored Concentrate."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (4), artificial color in all of the flavors, and artificial flavor in the cherry, loganberry, raspberry, grape, and strawberry flavors, had been added to the articles and mixed and packed with them so as to make them appear to be beverage concentrates containing a substantial proportion of fruit juices, which concentrates are better and of greater value than were the articles.

Misbranding, Section 403 (a), the statement on the bottle labels, "Holler's flavors make delicious Jellies, Jams," and the statements in the recipe booklet enclosed in each case, "Recipe for Making \* \* \* Jelly \* \* \* This recipe makes one quart of delicious jelly," were misleading since the articles would not make jellies or jams. Further misbranding, Section 403 (a), the design of fruits on the cases and in the recipe booklet, and the statements on the bottle labels, "Orange [or "Lemon," "Lime," "Cherry," "Loganberry," "Raspberry," "Grape," or "Strawberry"] Flavored Concentrate," were misleading as applied to the articles, since the orange, lemon, and lime flavors consisted of artificially colored emulsions of water, acid, sugar, citrus peel oil, brominated vegetable oil, and vegetable gum, and the cherry, loganberry, raspberry, grape, and strawberry flavors consisted of artificially flavored and artificially colored solutions of water and acid, or acids.

**DISPOSITION:** April 12, 1945. Holler's Concentrated Beverages, claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the products were ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**8805. Adulteration and misbranding of grape juice. U. S. v. 200 Cases of Grape Juice (and 3 other seizure actions against grape juice). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15712 to 15715, incl. Sample Nos. 6484-H to 6487-H, incl.)

**LIBELS FILED:** March 26, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 22, 1945, by the Superior Packing Co., from New York, N. Y.

**PRODUCT:** 200 cases, 219 cases, and 100 cases, each containing 12 bottles, of grape juice at Hillside, Passaic, and Garfield, N. J., respectively.

**LABEL, IN PART:** "Capitol Brand Grape Juice Made From Concentrated Grape Juice Sugar Added. Cont. 32 Oz. Aurora Juices Packing Co., Distributors, Albany, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially flavored and artificially colored mixture of water, sugar, and acid, or acids, had been substituted in whole or in part for grape juice; and, Section 402 (b) (4), artificial flavor and artificial color had been added to the product and mixed and packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the label statement, "Grape Juice Made From: Concentrated Grape Juice Sugar Added," was false and misleading; and, Section 403 (k), the grape juice contained artificial flavor and artificial color, and it failed to bear labeling stating that fact.

**DISPOSITION:** May 11, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8806. Adulteration and misbranding of grape juice punch. U. S. v. 100 Cases of Grape Juice Punch. Default decree of condemnation and destruction.** (F. D. C. No. 15764. Sample No. 11237-H.)

**LIBEL FILED:** March 29, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 13, 1945, by the H & P Co., from Manchester, N. H. This was a return shipment.

**PRODUCT:** 100 cases, each containing 24 1-pint bottles, of grape juice punch at Cambridge, Mass.

**LABEL, IN PART:** (Bottles) "Concord Grape Juice Punch \* \* \* D. A. Perkins, Inc., \* \* \* Cambridge, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, grape juice, grape juice concentrate, orange, and raspberry, had been in whole or in part omitted from the article; and, Section 402 (b) (4), artificial flavor and artificial color had been added to the product and mixed and packed with it so as to make it appear better or of greater value than it was.



Misbranding, Section 403 (a), the label statements, "Grape Juice Punch \* \* \* Grape Juice Concentrate, Orange, Raspberry \* \* \* use to make \* \* \* jellies," were false and misleading as applied to the article, which contained no grape juice, grape juice concentrate, orange, or raspberry; and, Section 403 (k), the article contained artificial flavor, and it failed to bear labeling stating that fact.

DISPOSITION: May 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8807. Adulteration and misbranding of grape juice punch. U. S. v. 40 Cases of Grape Juice Punch (and 4 other seizure actions against grape juice punch). Default decrees of condemnation. Product ordered delivered to public and charitable institutions.** (F. D. C. Nos. 15762, 15765, 15767, 15769, 16050. Sample Nos. 11007-H, 11231-H, 11232-H, 11449-H, 11458-H.)

LIBELS FILED: April 2 and 23, 1945, Districts of New Hampshire and Rhode Island.

ALLEGED SHIPMENT: Between the approximate dates of January 19 and March 7, 1945, by the D. A. Perkins Co., Somerville and Boston, Mass.

PRODUCT: 20 cases, 140 cases, and 33 cases, each containing 24 1-pint bottles, and 421 1-pint bottles of grape juice punch at Nashua and Manchester, N. H., and Providence and Woonsocket, R. I., respectively. Analysis showed that the article was an artificially flavored and artificially colored mixture of water and sugar, or sugars, containing added acid, or acids.

LABEL, IN PART: "Concord Grape Juice Punch Contains Sugar, Water, Grape Juice Concentrate, Orange, Raspberry, Tartaric Acid, Artificial Color, 1/10 of 1% Benzoate of Soda."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, grape juice, grape juice concentrate, orange, and raspberry, had been in whole or in part omitted from the article; and, Section 402 (b) (4), artificial flavor and artificial color had been added to the product and mixed and packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the label statements, "Grape Juice Punch \* \* \* Grape Juice Concentrate, Orange, Raspberry \* \* \* use to make \* \* \* jellies," were false and misleading as applied to the article; and, Section 403 (k), the product contained artificial flavor, and it failed to bear labeling stating that fact.

DISPOSITION: Between May 1 and June 1, 1945, no claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to public and charitable institutions.

**8808. Adulteration and misbranding of peach flow. U. S. v. 22 Cases of Peach Flow. Default decree of condemnation and destruction.** (F. D. C. No. 15137. Sample No. 74187-F.)

LIBEL FILED: February 3, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about November 7, 1944, by the Pure Foods Corporation, Los Angeles, Calif.

PRODUCT: 22 cases, each containing 24 1-pint cans, of peach flow at Kingston, N. Y.

LABEL, IN PART: (Cans) "Golden Flow Brand \* \* \* Peach Flow A Nectar of Peach Pulp, Juice, Water, Sugar Fruit (Citric) Acid Added [Design of a glass of beverage and a peach]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (a), the label design of a glass containing a beverage, with a picture of a peach and the name "Peach Flow," was misleading as applied to an article which contained only 33 percent fruit.

DISPOSITION: March 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8809. Adulteration of Royal Crown Cola. U. S. v. Harry E. Cressman (Nehi Beverage (Nevada) Co.). Plea of nolo contendere. Fine, \$300.** (F. D. C. No. 11422, Sample No. 39496-F.)

INFORMATION FILED: June 9, 1944, District of Nevada, against Harry E. Cressman, trading as the Nehi Beverage (Nevada) Co., Las Vegas, Nevada.

ALLEGED SHIPMENT: On or about September 15, 1943, from the State of Nevada into the State of California.



**LABEL, IN PART:** "Royal Crown Cola."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of unidentified dirt; and, Section 402 (a) (4), it had been prepared or packed under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** October 9, 1944. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$300.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS

**SS10. Adulteration of bakery products. U. S. v. Johnson Biscuit Co. Plea of guilty. Fine, \$1,200 and costs. (F. D. C. No. 15499. Sample Nos. 68339-F, 87526-F, 87614-F.)**

**INFORMATION FILED:** May 22, 1945, Northern District of Iowa, against the Johnson Biscuit Co., a corporation, Sioux City, Iowa.

**ALLEGED SHIPMENT:** On or about June 28 and July 12 and 17, 1944, from the State of Iowa into the States of Ohio, Minnesota, and South Dakota.

**LABEL, IN PART:** "Distributors Fine Trolley Cookies Packed For Independent Bis. Co. Toledo, Ohio Devils Delight," "Our Family Slightly Salted Soda Crackers Packed For Nash-Finch, Minneapolis, Minn." or "Golden Valley Fine Products Distributed By Nash-Finch Co. Minneapolis, Minnesota, Strawberry Puff."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, rodent hairs, cat hairs, human hairs, unidentified hairs, a straw fiber, larvae fragments, insect larvae, a live mite, and feather fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they might have become contaminated with filth.

**DISPOSITION:** May 22, 1945. A plea of guilty having been entered on the part of the defendant, a fine of \$400 on each of 3 counts, a total fine of \$1,200, plus costs, was imposed.

**SS11. Adulteration of cookies. U. S. v. 170 Boxes of Cookies. Default decree of condemnation and destruction. (F. D. C. No. 15640. Sample Nos. 22819-H to 22822-H, incl.)**

**LIBEL FILED:** March 16, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about February 1, 1945, by the Superior Biscuit Co., from Chicago, Ill.

**PRODUCT:** 170 boxes, each containing 17 pounds, of cookies at Cape Girardeau, Mo.

**LABEL, IN PART:** "Pineapple [or "Orange," or "Strawberry"] Delight," or "Chocolate Chip Cookies."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, insect fragments, and fragments resembling rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** April 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**SS12. Adulteration of crackers. U. S. v. 18 Cartons of Crackers. Default decree of condemnation and destruction. (F. D. C. No. 8311. Sample No. 17770-F.)**

**LIBEL FILED:** September 4, 1942, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 17, 1942, by the Burry Biscuit Co., from Elizabeth, N. J.

**PRODUCT:** 18 cartons, each containing 24 10-ounce boxes, of crackers at Bronx, N. Y. The product contained insect fragments, mammalian hair fragments, and nondescript dirt.

**LABEL, IN PART:** "Burry's Crisp Brown Bix."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** October 29, 1942. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### CORN MEAL

**8813. Adulteration of corn meal. U. S. v. Paul H. Jenkins (Jenkins Mill). Plea of nolo contendere. Fine, \$100. (F. D. C. No. 7200. Sample Nos. 59445-E, 59452-E.)**

**INFORMATION FILED:** May 23, 1942, Eastern District of North Carolina, against Paul H. Jenkins, trading as the Jenkins Mill, at Como, N. C.

**ALLEGED SHIPMENT:** On or about October 2 and 9, 1941, from the State of North Carolina into the State of Virginia.

**PRODUCT:** The product contained rodent excreta, rodent hairs, and insect fragments.

**LABEL, IN PART:** "Jenkins Meal Old-Fashioned Water Ground Way."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** September 28, 1942. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$100.

**8814. Adulteration of corn meal. U. S. v. 108 Bags and 480 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15448. Sample No. 27528-H.)**

**LIBEL FILED:** March 2, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about January 20, 1945, by the C. A. Krause Milling Co., from Milwaukee, Wis.

**PRODUCT:** 588 100-pound bags of corn meal at Portland, Oreg.

**LABEL, IN PART:** (Tag) "Amerikorn Yellow Gran. Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hair fragments.

**DISPOSITION:** April 2, 1945. The Flakall Co., Portland, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

**8815. Adulteration of corn meal. U. S. v. 5 Bags of Yellow Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 13944. Sample No. 78600-F.)**

**LIBEL FILED:** October 14, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 17 and 20, 1944, by the Chas. A. Krause Milling Co., from Milwaukee, Wis.

**PRODUCT:** 5 100-pound bags of yellow corn meal at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellet fragments, rodent hair fragments, and larvae.

**DISPOSITION:** November 8, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8816. Adulteration of corn meal. U. S. v. 37 Sacks of Corn Meal. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 15228. Sample No. 24112-H.)**

**LIBEL FILED:** On or about February 12, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about November 10, 1944, from Paris, Ill.

**PRODUCT:** 37 100-pound sacks of white corn meal at Mobile, Ala., in the possession of the M. Forchheimer Flour Co. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained rodent pellets and insect fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** April 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as animal feed.



**8817. Adulteration of corn meal. U. S. v. 40 Bags of White Meal. Default decree of condemnation and destruction.** (F. D. C. No. 15251. Sample No. 17105-H.)

**LIBEL FILED:** February 15, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On November 21, 1944, from Des Moines, Iowa.

**PRODUCT:** 40 100-pound bags of corn meal at Chicago, Ill., in the possession of the J. P. Graziano Grocery Co. The product was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** June 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8818. Adulteration of corn meal and rice. U. S. v. 230 Bags of Corn Meal and 158 Bags of Rice. Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 15445, 15461. Sample Nos. 24195-H, 25196-H.)

**LIBELS FILED:** On or about March 3 and 15, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** Between the approximate dates of September 13 and November 7, 1944, from Shawnee, Okla., and Crowley, La.

**PRODUCT:** 230 100-pound bags of corn meal and 158 100-pound bags of rice at Mobile, Ala., in the possession of the Gulley Grocery Co. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the corn meal contained rodent pellet fragments and insect fragments, and that the rice contained rodent excreta pellets, rodent hairs, and weevils.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they might have become contaminated with filth.

**DISPOSITION:** April 4, 1945. The Gulley Grocery Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the products were ordered released under bond for segregation of the good portion from the bad, under the supervision of the Food and Drug Administration. Both products were denatured for use as animal feed.

#### FLOUR

Nos. 8819 to 8826 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was determined, that fact is stated in the notice of judgment.)

**8819. Adulteration of flour. U. S. v. 156 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15669. Sample No. 9324-H.)

**LIBEL FILED:** March 21, 1945, Western District of New York.

**ALLEGED SHIPMENT:** Between the approximate dates of December 21, 1944, and January 11, 1945, from Atchison, Kans.

**PRODUCT:** 156 100-pound bags of flour at Cohocton, N. Y., in the possession of the Larrowe Buckwheat Flour Corporation. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article was contaminated with urine and that it contained rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** March 21, 1945. The Larrowe Buckwheat Flour Corporation, claimant, having consented to the entry of a decree, judgment of condemnation

was entered and the product was ordered released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

**8820. Adulteration of flour. U. S. v. 97 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 13901. Sample No. 59887-F.)

**LIBEL FILED:** October 11, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 24, 1944, by the Tri-State Milling Co., from Rapid City, S. Dak.

**PRODUCT:** 97 100-pound bags of flour at Chicago, Ill.

**LABEL, IN PART:** "Bleached Trisco Flour 100% South Dakota Hard Spring Wheat."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** November 9, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8821. Adulteration of phosphated flour. U. S. v. 293 Bags of Phosphated Flour. Default decree of condemnation. Product ordered delivered to a charitable institution, for use other than for human consumption.** (F. D. C. No. 15682. Sample No. 24136-H.)

**LIBEL FILED:** On or about April 2, 1945, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about February 3, 1945, from Yukon, Okla.

**PRODUCT:** 293 10-pound bags of phosphated flour at Terrell, Tex., in the possession of the Mayfield Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained rodent pellets and rodent hairs and that it was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** May 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, for use other than for human consumption.

**8822. Adulteration of phosphated flour. U. S. v. 58 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 15771. Sample No. 622-H.)

**LIBEL FILED:** April 5, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about September 26 and October 18, 1944, from Fort Worth, Tex.

**PRODUCT:** 58 50-pound bags of flour at Atlanta, Ga., in the possession of the Monroe Bonded Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product had been contaminated with urine, and that it contained rodent excreta pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** May 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8823. Adulteration of rye flour. U. S. v. 10 Bags and 16 Bags of Rye Flour. Default decree of condemnation and destruction.** (F. D. C. No. 13895. Sample Nos. 59885-F, 59888-F.)

**LIBEL FILED:** October 12, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 6, 1944, by the F. Jaeger Milling Co., from Astico, Wis.

**PRODUCT:** 10 100-pound bags of dark rye flour and 16 100-pound bags of medium rye flour at Chicago, Ill.



**LABEL, IN PART:** "Thornton's Wisconsin Stone Ground Rye Flour \* \* \* Dark [or "Medium"].

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of beetles and larvae.

**DISPOSITION:** November 8, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8824. Adulteration of sausage binder flour. U. S. v. 2 Barrels of Sausage Binder Flour. Default decree of condemnation and destruction. (F. D. C. No. 15475. Sample No. 20161-H.)**

**LIBEL FILED:** March 6, 1945, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about February 23, 1943, by the Miller Cereal Co., Omaha, Nebr.

**PRODUCT:** 2 300-pound barrels of sausage binder flour at Oklahoma City, Okla.

**LABEL, IN PART:** "Griffiths Sausage Special Binder Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils.

**DISPOSITION:** April 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of for purposes other than for human consumption.

**8825. Adulteration of soy flour. U. S. v. 85 Bags of Soyflake Flour. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 15746. Sample No. 5951-H.)**

**LIBEL FILED:** March 29, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 4, 1944, by David Coleman, Inc., from New York, N. Y.

**PRODUCT:** 85 100-pound bags of soy flour at West New York, N. J.

**LABEL, IN PART:** "Kellogg's Soyflake Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** May 22, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as hog feed, after the destruction of the labels.

**8826. Adulteration of soy flour. U. S. v. 325 Bags of Soy Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15479. Sample No. 31514-H.)**

**LIBEL FILED:** March 5, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about September 22, 1944, from Decatur, Ill.

**PRODUCT:** 325 100-pound bags of soy flour at Los Angeles, Calif., in the possession of the Overland Terminal Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent excreta pellets, rodent hairs, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** March 29, 1945. Spencer Kellogg and Sons, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into animal feed, under the supervision of the Food and Drug Administration.

#### MACARONI AND NOODLE PRODUCTS

**8827. Action to enjoin and restrain the interstate shipment of spaghetti, macaroni, and noodle products. U. S. v. Indiana Macaroni Co., John R. Rezzolla, Sr., Wilhelmina Naddeo, Menatti Perfetti, and Agents, Servants, and Employees of the Indiana Macaroni Co. Consent decree granting injunction. (Inj. No. 103.)**

**COMPLAINT FILED:** August 7, 1945, Western District of Pennsylvania, against the Indiana Macaroni Co., Indiana, Pa., and John R. Rezzolla, Sr., Wilhelmina



Naddeo, Menatti Perfetti, and agents, servants, and employees of the Indiana Macaroni Co.

**NATURE OF CHARGE:** That, since February 15, 1945, the defendants had been manufacturing, selling, and shipping spaghetti, macaroni, and noodle products in interstate commerce; that, in February and April 1945, inspections were made of the firm's place of business at Indiana, Pa., which inspections disclosed the existence of insanitary conditions in the plant; and that the methods and procedure followed in the manufacture of noodle products indicated that it was the regular practice of the defendants to use unfit raw materials, improperly cleaned flour, and improper and insanitary equipment in the manufacture of its products. The complaint further charged that, on the occasion of each visit by Food and Drug Administration inspectors, the attention of the person in charge of the plant was called to the unhealthy and insanitary conditions and the wholly unfit character of the raw materials being used for food products; that the defendants were warned that shipments of such products in interstate commerce would be violative of the law; that, notwithstanding these warnings, they failed to correct the conditions; and that, at the time of the filing of the complaint, they were continuing to introduce into interstate commerce products which were adulterated under Section 402 (a) (3) and (4) of the Act.

**PRAYER OF COMPLAINT:** That a preliminary injunction issue, restraining the defendants from commission of the acts complained of; and that, after due proceedings, the preliminary injunction be made permanent.

**DISPOSITION:** August 21, 1945. The defendants having consented to the entry of a decree, the court issued an order permanently enjoining the defendants from shipping in interstate commerce any adulterated food products manufactured or stored by the defendants at their plant.

**8828. Adulteration of macaroni and spaghetti. U. S. v. Peter Viviano and Sam Viviano (Viviano Bros. Macaroni Co.). Pleas of guilty. Each defendant fined \$1,000. (F. D. C. No. 15486. Sample Nos. 68020-F to 68022-F, incl., 68024-F.)**

**INFORMATION FILED:** May 23, 1945, Eastern District of Michigan, against Peter and Sam Viviano, trading as the Viviano Bros. Macaroni Co., Detroit, Mich.

**ALLEGED SHIPMENT:** On or about May 9 and 17, 1944, from the State of Michigan into the State of Ohio.

**LABEL, IN PART:** "Viviano Brand Elbow Macaroni," "Viviano Brand Semolina Vivison Macaroni Co., Inc. Manufacturers, Detroit, Michigan Spaghetti," "Blue Rose Brand \* \* \* Vivision Macaroni Co., Inc. \* \* \* Elbow Macaroni," or "Viviano No. 1 Semolina Spaghetтини."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect larva, insect fragments, rodent hair, hairs resembling rodent hairs, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they might have become contaminated with filth.

**DISPOSITION:** May 29, 1945. The defendants having entered pleas of guilty, the court imposed a fine of \$1,000 upon each defendant.

**8829. Adulteration of spaghetti. U. S. v. 30 Boxes of Spaghetti. Default decree of condemnation and destruction. (F. D. C. No. 15382. Sample No. 9312-H.)**

**LIBEL FILED:** February 14, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about April 17, 1943, from Reynoldsville, Pa.

**PRODUCT:** 30 20-pound boxes of spaghetti at Elmira, N. Y., in the possession of the Elmira Wholesale Grocery Co. This product had been stored under insanitary conditions after shipment. The boxes were rodent-gnawed, and they had been used as nesting places by rodents. Rodent excreta was found on and in the boxes.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** April 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**8830. Misbranding of macaroni. U. S. v. 19 Cases of Macaroni. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 15824. Sample No. 24223-H.)

**LIBEL FILED:** On or about April 3, 1945, Eastern District of Texas.

**ALLEGED SHIPMENT:** On or about February 19, 1945, by the Shreveport Macaroni Manufacturing Co., Shreveport, La.

**PRODUCT:** 19 cases, each containing 48 6-ounce packages, of macaroni at Texarkana, Tex.

**LABEL, IN PART:** "Two Stars Brand \* \* \* Macaroni."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product was a food in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents, since the packages contained less than the declared weight.

**DISPOSITION:** May 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

#### MISCELLANEOUS CEREAL PRODUCTS \*

**8831. Action to enjoin and restrain the interstate shipment of popped popcorn. U. S. v. Howard Davis (Better Taste Popcorn Co.). Tried to the court. Injunction granted.** (Inj. No. 108.)

**COMPLAINT FILED:** On or about October 3, 1945, Southern District of Indiana, against Howard Davis, doing business as the Better Taste Popcorn Co., at Anderson, Ind. The complaint charged that for a long time past the defendant had been and was still manufacturing, selling, and shipping in interstate commerce substantial amounts of popped popcorn which was prepared with and contained artificially colored nonnutritive mineral oil, and which was adulterated and misbranded.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the popcorn bore and contained 26 to 47 percent of added mineral oil, a deleterious substance which might have rendered it injurious to health; Section 402 (b) (1), a valuable constituent, edible oil, had been in whole or in part omitted from the article; Section 402 (b) (2), popcorn containing artificially colored nonnutritive mineral oil had been substituted in whole or in part for popcorn containing edible oil; Section 402 (b) (3), inferiority had been concealed by the addition of artificially colored nonnutritive mineral oil; and, Section 402 (b) (4), artificially colored nonnutritive mineral oil had been added to the article, or mixed or packed with it, so as to reduce its quality or strength and make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the labeling of the article was false and misleading since the name "Popcorn" and the words "Ingredients: Edible Oil," borne on the label, represented that the article contained edible oil.

**PRAYER OF COMPLAINT:** That the defendant be restrained and enjoined during the pendency of the action, and permanently, from (1) shipping in interstate commerce articles of food made and prepared from popped popcorn and containing as an ingredient mineral oil or other inedible oil; and (2) from shipping in interstate commerce any such article of food the labeling of which represented the same to be popcorn and which represented that it contained edible oil as an ingredient.

**DISPOSITION:** On November 1, 1945, a request for a temporary restraining order having been previously denied, the case came on for trial before the court on the issue of granting a permanent injunction, and at the conclusion of the trial, which occurred on the same day, the case was taken under advisement by the court. On December 26, 1945, after consideration of the evidence and the briefs and arguments of counsel, the court handed down the following findings of fact and conclusions of law:

#### SPECIAL FINDINGS OF FACT

**BALTZELL, District Judge:** "Pursuant to Rule 52 of the Rules of Civil Procedure, the Court now states its Special Findings of Fact (hereby adopting the Stipulation of Facts of the parties as such Special Findings of Fact), as follows, to wit:

##### 1.

"That the defendant, Howard Davis, is a sole trader, doing business under the firm name and style of Better Taste Popcorn Company and that his prin-

\* See also Nos. 8818, 8953.



principal place of business is in Anderson, Indiana, within the jurisdiction of this Court.

2.

"That the said defendant has for some time past been and now is engaged in the business of producing, manufacturing, packing, packaging, selling, and distributing in interstate commerce popped popcorn.

3.

"That the said defendant has for a long time past been and still is introducing and delivering for introduction into interstate commerce, from Anderson, Indiana, to points in other States, substantial amounts of said popped popcorn prepared with and containing artificially colored mineral oil.

4.

"That the total weights of shipments made by the defendant of the said popped popcorn in interstate commerce, for the period from and including the month of January 1943, to and including the month of September 1945, are as follows:

[Table setting out the shipments for the 3 years by months, showing a total of 614,192 pounds shipped in 1943, 653,078 pounds shipped in 1944, and 908,820.7 pounds shipped in 1945.]

5.

"That in the period from January 25, 1943, to July 25, 1945, the said defendant purchased twenty-one (21) carloads of Merusol White Mineral Oil, totaling 101,956 gallons, or 752,437 pounds, at an average price of 7¼ cents per pound (freight charges not included), from the Standard Oil Company (Indiana), Indianapolis, Indiana, for use and all of which was used in the preparation of said popped popcorn.

6.

"That the general specifications for Merusol White Mineral Oil are as set forth in statement from the manufacturers of that product, Standard Oil Company (Indiana). This statement bearing the signature of F. L. Cochran, General Manager, Standard Oil Company (Indiana), Indianapolis, Indiana, identified as Exhibit 'A', is attached hereto and is made a part hereof.

7.

"That on April 3, 1945, pursuant to the filing of a libel in the United States District Court for the Northern District of Illinois, 381 cartons, each containing sixty (60) ¾-ounce packages of the hereinbefore-mentioned popped popcorn labeled in part, 'Popcorn xx Ingredients Popcorn Edible Oil, Salt, U. S. Certified Color,' shipped by the said defendant from Anderson, Indiana, to Chicago, Illinois, were seized by the United States Marshal for the Northern District of Illinois, in the possession of the consignee, Walgreen Company, Chicago, Illinois, under the provisions of Section 334 (a) Title 21 U. S. C. A.

"7 (a) That the libel filed in the United States District Court for the Northern District of Illinois, contains allegations that the said popped popcorn was adulterated within the meaning of Section 342 (b) (1), (2), (3), and (4) Title 21, U. S. C. A.

"7 (b) That on April 24, 1945, the defendant, accompanied and represented by counsel, appeared at the Cincinnati, Ohio, office of the Food and Drug Administration, Federal Security Agency, in response to 'Notice of Hearing' issued to the said defendant in connection with the shipment of the said popped popcorn made by him from Anderson, Indiana, to Walgreen Company, Chicago, Illinois.

"7 (c) That the 'Notice of Hearing' issued to the said defendant, by direction of the Administrator of the Federal Security Agency, in accordance with the provisions of Section 335, Title 21, U. S. C. A., advised the said defendant that investigation by the Food and Drug Administration disclosed a violation of the Federal Food, Drug and Cosmetic Act, as set forth in 'charge sheet' attached to the 'Notice of Hearing', with respect to the shipment made by him from Anderson, Indiana, to Walgreen Company, Chicago, Illinois.

"7 (d) That the said defendant and his attorney, at said hearing, were advised by the hearing officer, Carl B. Stone, Acting Chief, Cincinnati Station, Food and Drug Administration, Federal Security Agency, that the use of artificially colored mineral oil in popcorn was considered to be a violation of the Federal Food, Drug and Cosmetic Act.



"7 (e) That on or about May 1, 1945, and pursuant to the provisions of Section 334 (b) Title 21, U. S. C. A., Howard Davis, doing business as Better Taste Popcorn Company, Anderson, Indiana, filed claim and answer, denying the allegations in the said libel action instituted in the United States District Court for the Northern District of Illinois.

"7 (f) That the libel filed in the United States District Court for the Northern District of Illinois was subsequently amended to include a charge under Section 342 (a) Title 21, U. S. C. A.

"7 (g) That the said libel action instituted in the United States District Court for the Northern District of Illinois, is still pending and as of this date has not been set down for trial.

8.

"That in May, June, and July of 1945 libel actions, under the provisions of Section 334 (a) Title 21, U. S. C. A., were instituted against the hereinbefore-mentioned popped popcorn shipped in interstate commerce by the said defendant from Anderson, Indiana, and labeled in part as indicated in paragraph 7 herein, in United States District Courts in the following jurisdictions:

Southern District of Ohio   Western District of Kentucky   Southern  
District of West Virginia   Middle District of Pennsylvania   Western  
District of Pennsylvania   Western District of Michigan   Nebraska  
Rhode Island   Massachusetts.

"8 (a) That no claims or answers, as is provided for in Section 344 (b) Title 21, U. S. C. A., have been filed by or in behalf of the defendant herein, in any of the above jurisdictions, and Exhibit 'B' attached hereto and made a part hereof, indicates the status of the libel actions as of October 5, 1945, in the jurisdictions involved.

9.

"That inspectors of the Food and Drug Administration, Federal Security Agency, if present would under oath testify in this cause that they collected samples of said popped popcorn from interstate shipments involved in libel actions filed in the United States District Courts in the jurisdictions listed in paragraphs 7 and 8 herein. That if said inspectors were present they would testify under oath in this cause that the samples collected by them were turned over to chemists of the Food and Drug Administration, Federal Security Agency; that the chemists of the Food and Drug Administration, Federal Security Agency if present in court would testify under oath that said inspectors delivered to them said samples which they analyzed and that said samples were found to contain the quantity of mineral oil as indicated in the attached tabulation Exhibit 'C', and that following the filing of the complaint in this cause on September 11, 1945, and up to and including October 6, 1945, they analyzed twenty-one (21) samples delivered to them by said inspectors and that each sample was from a separate shipment made by the defendant in interstate commerce, and that the tabulation appended hereto identified as Exhibit 'D', shows the amount of mineral oil found on analysis by said chemists of the Food and Drug Administration, Federal Security Agency, and that said inspectors would testify that the twenty-one (21) samples were collected as aforesaid and turned over to said chemists.

10.

"That labels employed by the said defendant on all interstate shipments of popped popcorn up to and including August 15, 1945, have borne the following statement: 'Popcorn xx ingredients: Popcorn, Edible Oil, Salt, U. S. Certified Color.'

"That labels employed by the said defendant on all interstate shipments of said popped popcorn since August 15, 1945, up to and including the 1st day of September, 1945, have borne the following statement: 'Popcorn xx Ingredients: Popcorn, Mineral Oil, Salt, U. S. Certified Color.'

"That labels employed by said defendant on all interstate shipments of said popped popcorn since the 1st day of September 1945, have borne the following statement: 'Ingredients: Popcorn, Mineral Oil (Non-Nutritive), Salt, U. S. Certified Color.'

"In addition to the above and foregoing Stipulation of Facts, the Court further finds the facts to be:

FINDING A

"That during the period from January 1943, to and including November 1, 1945, the date of the trial in this cause, the defendant introduced and delivered



into interstate commerce from Anderson, Indiana, to points in other States, shipments of popped popcorn which was prepared with and contained mineral oil; that the mineral oil so used met with the requirements of the United States Pharmacopoeia for white mineral oil; that such mineral oil is a drug and not a food; that it cannot be digested and absorbed by the body and is therefore nonnutritive and nonedible. That mineral oil, taken orally, passes through the gastro-intestinal tract and is ejected through the alimentary tract without being absorbed by the body.

#### FINDING B

"That as shown in Exhibits C and D, which are hereinbefore referred to in the Stipulation of Facts, the amount of mineral oil in the different packages of popcorn varies; that in many instances the amount of mineral oil was in excess of one tablespoonful per package. That one of the effects of eating popcorn impregnated with a tablespoonful of mineral oil would be a laxative action; that the repeated eating of such popcorn would accustom the digestive system and the digestive canal to the laxative action of the mineral oil, with the result that if the individual stopped eating such popcorn it would take considerable time for the intestinal tract to resume its normal physiology in which time the individual would suffer from constipation.

#### FINDING C

"That when mineral oil, such as is contained in the defendant's popcorn, is mixed with food and eaten, it absorbs the fat soluble vitamins and their precursors which are in the food with which the oil is mixed; that the oil also absorbs said vitamins and precursors which are present in the digestive tract; that the most soluble precursor is carotene, the precursor of vitamin A; that in the passage of the mineral oil through the digestive tract the carotene present there is absorbed by the oil and ejected with it from the body; that therefore the body is deprived of the carotene in the digestive tract and also of the carotene in the popcorn; that this would not occur if an edible oil was taken into the body since such oil, while also absorbent of carotene, is digestible and the absorbed carotene along with the oil would be digested by the body.

"That the loss of vitamin A for a short period of time would not have any ill effect on the body, but the continued loss of the vitamin A would produce several changes in the body, the principal one of which would be the effect on the vision known as xerophthalmia or night blindness; that there would also be certain resultant changes in the texture of the skin.

"That if taken within an hour or two after eating, continual use of mineral oil will also reduce the amount of vitamin D which has to do with rickets and the amount of vitamin K which has to do with blood clotting.

#### FINDING D

"That mineral oil, such as is contained in the defendant's popcorn, if taken repeatedly would, at its ejection from the body, produce irritation about the rectal opening; that if the individual suffered from hemorrhoids, these would be irritated.

#### FINDING E

"That the popped popcorn which is the product of the defendant contains mineral oil in sufficient quantities to be harmful; that such mineral oil is a deleterious substance which renders the popcorn injurious to health; that the popcorn is therefore adulterated within the meaning of the Food, Drug and Cosmetic Act.

#### CONCLUSIONS OF LAW

"Upon the above and foregoing Special Findings of Fact, the Court now states its Conclusions of Law, as follows:

#### I

"That the law and equities are with the plaintiff; that an injunction should issue permanently enjoining the defendant, his agents, servants, employees, and all persons in active concert or participation with the defendant from introducing and delivering for introduction into interstate commerce articles of food made and prepared from popped popcorn which contains as an ingredient thereof mineral oil or any other nonedible oil.



## II

"That since an injunction is to be issued enjoining the use of mineral oil in the defendant's product, no injunction with reference to the label of the product need be entered.

## III

"That the plaintiff should recover of and from the defendant herein its costs."

On December 26, 1945, an order was entered permanently enjoining the defendant from introducing or delivering for introduction into interstate commerce popped corn adulterated by reason of its bearing or containing mineral oil or any other inedible oil, or adulterated by reason of the substitution of mineral oil or other inedible oil for edible oil. The defendant was also permanently enjoined from introducing or delivering for introduction into interstate commerce articles of food made and prepared from popped popcorn containing as an ingredient mineral oil or any other nonedible oil.

**8832. Adulteration and misbranding of popped popcorn. U. S. v. 145 Cartons of Popcorn (and 131 other seizure actions against popcorn). Default decrees of condemnation. One lot of the product ordered delivered for use as hog feed; remainder ordered destroyed.** (F. D. C. Nos. 15998, 15999, 16714, 16715, 16717, 16849, 16870, 16872, 16873, 16894, 16963 to 16965, incl., 16968, 16969, 17213, 17214, 17454, 17485, 17683, 17766 to 17769, incl., 17948 to 17951, incl., 17953 to 17955, incl., 17960, 17961, 17979 to 17982, incl., 18032, 18038 to 18041, incl., 18048, 18058, 18067, 18133, 18135, 18142 to 18144, incl., 18179 to 18183, incl., 18193 to 18198, incl., 18203, 18225, 18233 to 18236, incl., 18239, 18242 to 18246, incl., 18378-A, 18379-A, 18393 to 18395, incl., 18397, 18401, 18403 to 18410, incl., 18412, 18415, 18419 to 18421, incl., 18423 to 18425, incl., 18429, 18431, 18461, 18468, 18469, 18513, 18538, 18539, 18545, 18546, 18559, 18580, 18612 to 18615, incl., 18677, 18681, 18683, 18702, 18740, 18741, 18788 to 18790, incl., 18941 to 18943, incl., 18954, 18959 to 18963, incl., 18997, 19056, 19097, 19239. Sample Nos. 869-H, 870-H, 1060-H, 1108-H to 1110-H, incl., 2690-H to 2692-H, incl., 3924-H, 3925-H, 3927-H, 3928-H, 4591-H to 4593-H, incl., 4595-H, 4646-H, 4866-H, 4867-H, 4869-H to 4871-H, incl., 4873-H to 4886-H, incl., 4895-H, 5005-H, 5006-H, 5026-H, 5031-H, 5034-H, 5037-H, 5203-H to 5208-H, incl., 5506-H, 6944-H to 6946-H, incl., 6949-H, 6950-H, 6960-H, 7313-H, 7317-H, 7318-H, 7394-H, 7743-H, 7923-H to 7929-H, incl., 8079-H, 8143-H, 8144-H, 8225-H, 8271-H, 8272-H, 9266-H, 9267-H, 9276-H, 9649-H, 9783-H, 9784-H, 9789-H, 9790-H, 9808-H to 9811-H, incl., 10328-H, 10367-H, 10375-H, 10624-H to 10627-H, incl., 10642-H, 10652-H, 10653-H, 10666-H, 10670-H, 10690-H, 10944-H to 10950-H, incl., 10956-H, 10965-H, 10989-H, 11073-H to 11075-H, incl., 11275-H, 11600-H, 11668-H, 11726-H, 11866-H, 11868-H, 12061-H, 12062-H, 12091-H, 12209-H, 12211-H, 12238-H, 12240-H, 12300-H, 12329-H, 12354-H, 12431-H to 12433-H, incl., 12484-H, 12833-H, 13070-H, 13071-H, 13171-H to 13173-H, incl., 13493-H, 13496-H, 13498-H, 13769-H, 14046-H, 14217-H, 14426-H, 14571-H, 14827-H, 14828-H, 14830-H, 14853-H, 17642-H, 33102-H, 33104-H, 38202-H, 38206-H, 38919-H to 38923-H, incl., 52517-H, 60019-H.)

**LIBELS FILED:** Between May 3, 1945, and February 25, 1946, Northern and Southern Districts of Ohio; Eastern, Middle, and Western Districts of Pennsylvania; Northern, Southern, and Western Districts of New York; Eastern and Western Districts of Michigan; Eastern and Western Districts of Kentucky; District of Massachusetts; District of Rhode Island; Southern District of West Virginia; District of Vermont; District of Maine; District of Connecticut; District of New Hampshire; District of New Jersey; Western District of North Carolina; and Western District of South Carolina.

**ALLEGED SHIPMENT:** Between the approximate dates of April 9 and November 28, 1945, by the Better Taste Popcorn Co., from Anderson and Middletown, Ind.

**PRODUCT:** 11,415 cartons and 3,456 dozen bags of popcorn. Some of the cartons contained 24 bags of popcorn, while other cartons contained 30 bags, 36 bags, 42 bags, 48 bags, 60 bags, or 72 bags of popcorn. The bags contained  $\frac{3}{4}$  ounce, 2 ounces, or  $3\frac{1}{4}$  ounces of popcorn. The product was located at Dayton, Hamilton, Columbus, Cincinnati, Mansfield, Youngstown, and Amelia, Ohio; Worcester, Somerville, Boston, Fall River, and Lawrence, Mass.; Providence, R. I.; Burlington, Vt.; Charleston, W. Va.; Pittsburgh, Ind.; Johnstown, Grove City, McKeesport, Altoona, Erie, New Castle, Williamsport, Scranton, Bradford, Towanda, Philadelphia, Souderton, Osceola Mills, Leighton, West Brownsville, Catasauqua, Norristown, Bethlehem, and Lancaster, Pa.; Flint, Grand Rapids, Saginaw, Kalamazoo, and Muskegon, Mich.; Buffalo, Elmira, Jamestown, Auburn, Gloversville, Oneonta, Binghamton, Rome, Watertown, Ogdensburg, Newburg, Hornell, and Albany, N. Y.; Russellville, Lexington, and Pikeville, Ky.; Bangor and Presque Isle, Maine; Waterbury, New Haven, and Bridgeport, Conn.; Franklin and Manchester, N. H.; Trenton, Newark, Bridgeton, South



River, and Perth Amboy, N. J.; Shelby, Lincolnton, Hickory, and Hendersonville, N. C.; and Greenville, S. C.

Analyses disclosed that the product contained mineral oil and little or no edible oil. Examination showed that one lot of the product was short-weight.

**LABEL, IN PART:** "Popcorn \* \* \* Ingredients: Popcorn, Edible Oil, Salt, U. S. Certified Color," "Popcorn Ingredients: Popcorn, Mineral Oil (non-nutritive) Salt, U. S. Certified Color," or "Popcorn Ingredients: Popcorn, Mineral Oil, Salt, U. S. Certified Color."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the popcorn contained added mineral oil, a deleterious substance which might have rendered the product injurious to health; Section 402 (b) (1), a valuable constituent, an edible oil, had been in whole or in part omitted from the article; Section 402 (b) (2), a substance consisting of popped corn with artificially colored non-nutritive mineral oil had been substituted in whole or in part for popcorn with edible oil; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), artificially colored mineral oil had been mixed and packed with the product so as to reduce its quality or strength and make it appear better or of greater value than it was.

Misbranding, Section 403 (e) (2), one lot of the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** Between May 31, 1945, and March 26, 1946, no claimant having appeared, judgments of condemnation were entered and it was ordered that one lot of the popcorn be delivered to a public institution, for use as hog feed, and that the other lots be destroyed.

**8833. Adulteration of popcorn. U. S. v. 69 Bags, 96 Bags, and 165 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15596. Sample Nos. 28538-H to 28540-H, incl.)**

**LIBEL FILED:** March 16, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about December 18, 1944, and January 11, 1945, from Caldwell, Idaho.

**PRODUCT:** 330 100-pound bags of popcorn at Seattle, Wash., in the possession of the Heck Specialty Co. This product had been stored under insanitary conditions after shipment. Some of the bags were roden-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** March 29, 1945. The Heck Specialty Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

**8834. Adulteration of shelled popcorn. U. S. v. 52 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15660. Sample No. 18715-H.)**

**LIBEL FILED:** March 24, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 25, 1945, by John B. Mortenson and Co., from Chicago, Ill.

**PRODUCT:** 52 100-pound bags of shelled popcorn at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets.

**DISPOSITION:** May 10, 1945. The True Popcorn Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reprocessing in order to remove all filthy material, under the supervision of the Food and Drug Administration.

**8835. Adulteration of popcorn. U. S. v. 100 Bags of Popcorn. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15755. Sample No. 31039-H.)**

**LIBEL FILED:** March 30, 1945, District of Arizona.

**ALLEGED SHIPMENT:** On or about March 5, 1945, by the Morris Rosenberg Co., from Los Angeles, Calif.



**PRODUCT:** 100 100-pound bags of popcorn at Phoenix, Ariz.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent hairs.

**DISPOSITION:** April 13, 1945. Allen L. Rosenberg having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be cleaned and repackaged under the supervision of the Food and Drug Administration.

**8836. Adulteration and misbranding of popcorn. U. S. v. 200 Cartons of Popcorn. Default decree ordering the product destroyed unless converted into animal feed. (F. D. C. No. 15684. Sample No. 18718-H.)**

**LABEL FILED:** March 29, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 24, 1945, by the Gertz Distributing Co., from Chicago, Ill.

**PRODUCT:** 200 cartons, each containing 48 8-ounce cans, of popcorn at Minneapolis, Minn. Examination showed that the product contained rodent-gnawed kernels and that it was short-weight.

**LABEL, IN PART:** "Judmar's Pop-Corn Simply Delicious Net Wt. 8 Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed kernels.

Misbranding, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** June 13, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed or converted into animal feed, under the supervision of the Food and Drug Administration.

**8837. Adulteration of coated puffed wheat. U. S. v. Confections, Inc. Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 12551. Sample Nos. 29994-F, 65257-F.)**

**INFORMATION FILED:** December 1, 1944, Northern District of Illinois, against Confections, Inc., Chicago, Ill.

**ALLEGED SHIPMENT:** On or about November 30 and December 20, 1943, from the State of Illinois into the States of California and Montana.

**LABEL, IN PART:** "Honey Child Sugared-Buttered Ready to Eat Coated Puffed Wheat Honey Flavored."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), mineral oil, a nonnutritive substance, had been substituted in part for "Sugared-Buttered \* \* \* Coated Puffed Wheat Honey Flavored," which the article was represented to be.

**DISPOSITION:** April 10, 1945. A plea of guilty having been entered, the court imposed a fine of \$50, plus costs.

**8838. Adulteration of wheat cereal. U. S. v. 85 Cases of Wheat Cereal. Default decree ordering that the product be destroyed unless converted into animal feed. (F. D. C. No. 15620. Sample No. 18548-H.)**

**LABEL FILED:** March 19, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 30, 1945, by the Nebraska Consolidated Mills Co., from Omaha, Nebr.

**PRODUCT:** 43 cases, each containing 18 24-ounce packages, and 42 cases, each containing 24 12-ounce packages, of wheat cereal at St. James, Minn.

**LABEL, IN PART:** "Dixianna Wheat Cereal Energy Food."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, insect fragments, and larvae.

**DISPOSITION:** June 13, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed or converted into animal feed, under the supervision of the Food and Drug Administration.



**8839. Adulteration of Meatex Wheat Endosperm. U. S. v. 249 Bags of Meatex Wheat Endosperm. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15721. Sample No. 617-H.)**

**LIBEL FILED:** March 21, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 25, 1944, from Hawthorne, Ill.

**PRODUCT:** 249 100-pound bags of Meatex Wheat Endosperm at Atlanta, Ga., in the possession of the Nelson Brokerage Co. The article was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed the product was contaminated with rodent urine and that it contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** April 17, 1945. The Nelson Brokerage Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal feed, under the supervision of the Food and Drug Administration.

**8840. Adulteration of brewer's grits. U. S. v. 3,000 Bags of Brewer's Grits. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15685. Sample No. 31518-H.)**

**LIBEL FILED:** March 26, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about July 21 and August 1 and 2, 1944, from Fort Worth, Tex.

**PRODUCT:** 3,000 100-pound bags of brewer's grits at Los Angeles, Calif., in the possession of the Pacific Coast Warehouse. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained rodent pellets, rodent hairs, and insect fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** April 16, 1945. The Acme Brewing Co., Los Angeles, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8841. Adulteration of rice. U. S. v. 199 Bags of Rice. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15011. Sample No. 20203-H.)**

**LIBEL FILED:** On or about January 26, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about December 4, 1944, from Stuttgart, Ark.

**PRODUCT:** 199 100-pound bags of rice at Kansas City, Mo., in the possession of the Crooks Terminal Warehouse. The product was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

**DISPOSITION:** February 7, 1945. The Consumers Mill Product Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8842. Adulteration of brewer's rice. U. S. v. 37 Bags of Brewer's Rice. Default decree of condemnation and destruction. (F. D. C. No. 13722. Sample No. 59878-F.)**

**LIBEL FILED:** September 27, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about November 15, 1943, by the Walton Rice Mill, Inc., from Stuttgart, Ark.



**PRODUCT:** 37 100-pound bags of brewer's rice at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, moths, and larvae.

**DISPOSITION:** November 9, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## CHOCOLATE, SUGARS, AND RELATED PRODUCTS\*

### CANDY

**8843. Adulteration of candy. U. S. v. Triangle Candy Co., and Bernard G. Kennepohl. Pleas of not guilty. Tried to the court. Count 1 of the information dismissed; verdict of guilty on the remaining 6 counts. Corporate and individual defendants fined \$1,500 and \$500, respectively. Appealed to the circuit court of appeals. Judgment affirmed on certain counts and reversed on other counts; corporate fine reduced to \$1,000. (F. D. C. No. 8757. Sample Nos. 81916-E, 81917-E, 81919-E, 12116-F, 12117-F, 12736-F, 14141-F.)**

**INFORMATION FILED:** January 30, 1943, Southern District of California, against the Triangle Candy Co., a corporation, Los Angeles, Calif., and Bernard G. Kennepohl, vice-president of the corporation.

**ALLEGED SHIPMENT:** Between the approximate dates of May 8 and August 26, 1942, from the State of California into the States of Washington, Arizona, and Utah.

**LABEL, IN PART:** "Chocolate Straws," "Walnut-Filled Chips," "Green Mints," "P-Nut Butter Kisses," "Ass't Starlite," or "Sugar Roasted P-Nuts."

**NATURE OF CHARGE:** Count 1, adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it might have become contaminated with filth.

Counts 2 to 7, inclusive, adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, hairs resembling rodent hairs, other hairs, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** Pleas of not guilty having been entered, the case came on for trial before the court on March 30, 1943. At the commencement of the trial, the question arose as to the language of the charge in each count, namely, that the article had been prepared under insanitary conditions whereby it "might have become contaminated with filth." The court ruled that the expression "might have become contaminated" indicated that there was no contamination but that the food in question might have become contaminated because of insanitary conditions, and that the expression "may have become contaminated" presupposed the contamination of the food and accounted for its contamination by the insanitary conditions. A motion was made by the United States attorney to amend the information in each count and to change the word "might" to "may." The court denied the motion as to count 1 since that count did not charge a violation under 402 (a) (3), but it granted the motion with respect to the remaining counts, 2 to 7, inclusive. At the close of the Government's case, the defendant moved to dismiss all counts for failure of proof. The court denied the motion with respect to counts 2 to 7, inclusive, but it granted the motion with respect to count 1, which count was dismissed. The court, in making the ruling, expressed the opinion that there must be actual adulteration of the food in order to rely upon Section 402 (a) (4) of the Act, and that the word "may" should be used in the pleading.

At the conclusion of the trial, the court found both defendants guilty on counts 2 to 7, inclusive. On April 12, 1943, the corporate defendant was fined \$500 on each of those counts, with the fines on counts 5, 6, and 7 to run concurrently with those on counts 2, 3, and 4, and with judgment to be satisfied upon the payment of \$1,500. On the same date, the individual defendant was fined \$250 on each of counts 2 to 7, inclusive, with the fines on counts 4, 5, 6, and 7, to run concurrently with those on counts 2 and 3, and judgment was to be satisfied upon payment of \$500. On April 17, 1943, a notice of appeal to the United States Circuit Court of Appeals for the Ninth Circuit was filed on behalf of the defendants; and on August 8, 1944, after consideration of the briefs and arguments of counsel, a decision was handed down by that court,

\*See also Nos. 8837, 8976.



affirming the judgment of the district court with respect to counts 2 and 5, reversing the judgment with respect to the remaining counts, and ordering the fine against the corporation reduced to \$1,000. The court delivered the following opinion:

DENMAN, *Circuit Judge*: "This is an appeal by defendants and appellants, Triangle Candy Company, a corporation, and Bernard G. Kennepohl, from judgments rendered against them after appellants were found guilty on six counts of violation of the Federal Food, Drugs, and Cosmetics Act, 21 U. S. C. A. § 331 (a) prohibiting 'the introduction into or delivery for introduction into interstate commerce of any food, drug, device or cosmetic that is adulterated or misbranded.'

"There were seven counts in the information. The adulteration charge was twofold in character in all but the first count. Alleged in each count was adulteration under 21 U. S. C. A. § 331 (a) 4, providing that a food shall be deemed adulterated 'if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.' In all counts save the first it was additionally alleged that there was adulteration of the candy involved under 21 U. S. C. A. § 331 (a) 3, providing that a food shall be deemed to be adulterated 'if it consists in whole or in part of any filthy, putrid, or decomposed substances, or it is otherwise unfit for food.'

"The corporate and individual defendants were each found guilty on counts II through VII. A fine of Five Hundred Dollars was imposed on the corporate defendant as to each count; its fine totaled Fifteen Hundred Dollars by virtue of the concurrency of some of the sentences. Kennepohl was fined Two Hundred and Fifty Dollars on each count, concurrency reducing the total sum to be paid to Five Hundred Dollars.

"It is the contention of the appellants that Congress made the supplying to them of part of the samples whose analysis provided the basis for the charges a condition precedent to the maintenance of a prosecution under the Act. It was stipulated at the trial that though seasonable written request was made for such samples as to each count, it was not complied with as to the samples involved in Counts III, IV, VI and VII.

"Appellants' contention must be considered since, though some of the fines ran concurrently, the judgment cannot be entirely sustained if the convictions on these four counts are invalid. Kennepohl was fined Two Hundred and Fifty Dollars on Counts II and III, and the same amount on each of the other four last counts, the latter four to run concurrently with each other, and with the separate fines in Counts II and III. Since samples were furnished as to counts II and V in conformity with the statute and regulations, the judgments as to two non-concurrent fines are plainly valid with respect to the sample requirement and no finding need be made as to this question so far as Kennepohl is concerned.

"However, a somewhat different situation is presented with respect to the corporate appellant. As to it fines of Five Hundred Dollars were levied on counts II, III and IV; and similar fines as to the last three counts, these to run concurrently with each other and with the fines on counts II, III and IV. To uphold in its entirety the judgment as to the corporate defendant, it would be necessary to find that three valid and non-concurrent fines were levied. But if the sample provision requirement be jurisdictional, not more than two of the fines can be upheld.

"The sample provision requirement of the Act (21 U. S. C. A. § 372. *Availability to owner of part of analysis samples*:) is as follows:

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this chapter the Administrator shall, upon request, provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner's thereof, or his attorney or agent; except that the Administrator is authorized, by regulations, to make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of the subsection as he finds necessary for the proper administration of the provisions of this chapter.

"The Administrator, in pursuance of this authorization to make reasonable exception from the sample which 'shall . . . [be] provide[d]' made a regulation regarding sample provision. (S. R. A. F. D. C. 1, Rev. 1—Issued August, 1939, Revised August, 1941). Its pertinent provisions are

Regulation [2.700].

(b) When an officer or employee collects an official sample of a food, drug, or cosmetic for analysis under the Act, he *shall collect* at least twice the quantity estimated by him to be sufficient for analysis, unless . . .<sup>1</sup>

<sup>1</sup> The government in brief and argument treats the regulations as if they did not contain this pertinent section (b).



"There follows a list of seven exceptions, none of them pertinent to the facts of this case. The regulation continues

In addition to the quantity of sample prescribed above, the officer or employee shall, if practicable, collect as part of the sample such further amount of the article as he estimates to be sufficient for use in the trial of any case that may arise under the Act based on the sample.

"The government does not contend that any of those employed to collect samples obeyed the mandate of the regulation that they '*shall* collect at least twice the amount estimated by him to be sufficient for analysis,' much less that he collected enough more for use at the trial. The most the testimony shows in this regard is that one inspector took one pound of candy as a sample (under count IV) which he 'felt' was 'sufficient' to supply a sample to appellant. He said nothing about its being double the amount required for analysis.

"After requiring such amounts of samples to be collected, the next subsection (c) provides,

After the Food and Drug Administration has completed such analysis of an official sample of a food, drug, or cosmetic as it determines, in the course of analysis and interpretation of analytical results, to be adequate to establish the respects, if any, in which the article is adulterated or misbranded within the meaning of the act, or otherwise subject to the prohibitions of the act, and has reserved an amount of the article it estimates to be adequate for use as exhibits in the trial of any case that may arise under the act based on the sample, a part of the sample, if any remains available, shall be provided for analysis, upon written request, by any person named on the label of the article, or the owner thereof, or the attorney or agent of such person or owner, unless . . .

"There follow two exceptions which are not pertinent here.

"The only testimony regarding the amount of the samples left after analysis was not from any collector but from the government's chief chemist of the Los Angeles station to whom the collector sent the collected samples. He nowhere testified that double the amount deemed needed for analysis was received, plus enough to use at the trial. All he testified to is that "the reason why samples were not furnished which the candy company requested was because all the samples at the Los Angeles station were used in the course of the analyses by the chemists involved; that there was no candy left over after the analyses could be sent to them.'

"It is thus apparent that the government, failing to supply the demanded samples, has not brought itself within the exceptions of the regulations created under the statute. The problem thus becomes one of the effect of such failure to obey the mandate that the Administrator '*shall* . . . provide' the samples. Was the furnishing to the owner of a portion of the sample on request, subject only to exceptions necessary to successful administration and enforcement, intended to be a mandatory prerequisite to the successful maintenance of an information based on the Act, or was the statute directing that such furnishing be made intended as merely an administrative direction, failure to comply with which could not be complained of by those accused under the Act?

"The statute, saying as it does that samples, with exceptions, *shall* be provided, is in terms mandatory. '. . . it is the language of command, a test significant, though not controlling.' *Escoe v. Zerbst*, 295 U. S. 490, 493. However, in cases involving prospective action of government officials, the word '*shall*' may be given a merely directory meaning if the law's purpose is rather the protection of the government by guidance of its officials than the granting of rights to the private citizens affected. Thus in *Erhardt v. Schroeder*, 155 U. S. 124, a statute was held merely to be a guide to public officers which provided, in language apparently mandatory, that the collector of the port of New York should examine at least a certain proportion of shipments sent to him for examination and appraisal; and an assessment based on inspection of less than the prescribed percentage was therefore upheld. In that statute no right was granted specifically (as here) or by inference to the persons interested in the shipments.

"The problem is always whether construing the statute as providing merely administrative director would impair the interest, public or private, intended to be protected. *Escoe v. Zerbst*, 295 U. S. 490. In this case a statute was held mandatory which provided for a hearing on arrest of a probationer for recommitment for violation of the terms of his probation. And see *Lyon v. Alley*, 130 U. S. 177; *French v. Edwards*, 13 Wall. 506.

"No decisions under the disputed section of the Act have been called to our attention and none has been disclosed by our search. One possible source of aid is the legislative history of § 372. The original Food and Drug Act (34 Stat.



768; 21 U. S. C. A. 301) was passed in 1906 and did not contain any section resembling the present sample provision. Regulations promulgated under the old Act apparently gave the administrator the right to take samples and provided that 'upon request one subdivision, if available, shall be delivered to the party or parties interested.' (Regulations 3, Subdivision (c)). In Congress the House amended the bill for the present statute to provide that samples should be furnished only 'if available.' That is to say, to make the statute conform to the existing regulation. The Senate rejected the amendment and the bill was finally passed in its present form with its mandatory 'shall provide.'

"We hold that the provision is not merely directory—for the guidance of the Administrator—but mandatorily gives the right to samples to the accused manufacturers, unless the Administrator brings himself within the excepting regulations. This is assuming but not deciding that the present regulations providing for the giving of the sample 'if any remains available' is a valid regulation where such a provision appeared in the prior regulation and its incorporation into the bill was proposed and denied.

"The language in those cases which touch on the matter of sample apportionment as directed by statute is all to the effect that unless samples are furnished to the accused, no prosecution may be maintained. It was said in *People v. Weaver*, 116 App. Div. 594, 101 N. Y. S. 960, 965, 'It is undoubtedly true that this provision as to the delivery of the duplicate sample is imperative, and that a recovery could not be had if the inspector failed to comply with it.' Remarks of similar tenor may be found in *Commonwealth v. Lockhardt*, 144 Mass. 132, 10 N. E. 511, and in *People v. Bowen*, 182 N. Y. 1, 74 N. E. 489. And see *Commonwealth v. Wilson*, 89 Pittsburgh Law Journal 469.

"The English Sale of Food and Drugs Act provides that when an article is purchased with intent to submit it to the public analyst—presumably with an eye to prosecution under the act—the buyer shall notify the seller of his intention and offer to divide the article into three parts, giving one to the seller. The English cases have held that strict compliance with the sample furnishing requirement is an indispensable condition of prosecution. *Auger v. Brown*, 36 T. L. R. 61 (1919). Additionally, the notification of intent must be in accordance with the terms of the statute. *Barnes v. Chipps*, 3 Exch. Div. 176 (1878). And each of the three subdivisions must be substantially equal and of sufficient quantity so that it is capable of being analyzed. *Lowery v. Hallard*, 1 K. B. 398 (1906).

"It is urged by appellee that none of these analogies is persuasive and that the case of *United States v. Morgan*, 222 U. S. 274, demonstrates that § 372 is simply directory in its nature. The *Morgan* case arose under a section which was predecessor to the present § 335, and which provided in mandatory terms that 'Before any violation of this chapter is reported by the Administrator to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing with regard to such contemplated proceedings.' This section, was held to be merely an administrative direction, failure to follow which did not invalidate further proceedings.

"However, the section there interpreted is very different from the one involved in this case. An expressly stated ground of the *Morgan* decision was that violation of the statute would not deprive defendants of any substantial right. Failure of the Administrator to follow the Congressional directive would lead simply to a full and fair trial, without the slightest impairment of right or ability to defend against the charge. Malicious prosecution by the Administrator would remain impossible because of the requirement for filing an information or indictment. The purpose of the law was apparently to set up a common-sense procedure for the Administrator which might in some cases indicate the undesirability of instituting a formal action and in others clarify the issues for determination at the trial.

"The purpose of § 372 (b) is different. If those accused under the Act are not given a portion of the sample, their power to make a complete defense is substantially curtailed. Intent is no part of the crime with which they are charged. If they have introduced the food into interstate commerce, and if it is adulterated, they are guilty, regardless of their intent or lack of knowledge as to adulteration. It may frequently happen that the single factual issue is that of adulteration. Without access to a portion of the sample, they are confronted by a government analysis of that sample which they cannot refute



but at best, and with difficulty, impeach by challenging the government's method of sampling and testing.

"Section 372 (b), then, must have been intended to provide defendants with an opportunity for independent analysis; and it is clear that the results of such analysis may be among the most important pieces of evidence defendants can offer in their own behalf. Deprivation of the chance to make this test, unlike the elimination of the informal hearing involved in the Morgan case, prejudices defendants' substantial rights. This consideration, added to the statute's mandatory wording, and the analogy of cases under other acts, lead us to the conclusion that provision of a portion of the sample, save in properly excepted cases, is a condition precedent to prosecution.

"Since, despite seasonable written request, no samples of the food involved in counts III, IV, VI and VII were furnished defendants, nor any reason offered for this failure, the convictions on these counts must be reversed. Counts II and V remain for consideration. The principal grounds of reversal urged as to these is that there was insufficient evidence to support a finding that the candy was physically adulterated with filth, or that it had been manufactured under conditions proscribed by the Act.

"As to this second ground, government inspectors testified that, at times not far removed from the date of manufacture of the candy, conditions at appellants' plant were unsanitary. They gave evidence as to the presence of rats and cockroaches, and a showing was made that candy-making machines were left uncleaned after use. This, despite existence to contrary testimony, supports a finding of uncleanness at the plant.

"It is true that the evidence of actual physical adulteration of the candy involved in counts II and V did not disclose any extremely high proportion of alien substances, and that this evidence was met by evidence of an independent analysis of other portions of the samples which disclosed no adulteration whatsoever. However, evidence was offered to the effect that in a first test an analysis of three pounds of the candy involved in count II disclosed the presence of two small rodent hairs in one of the three one-pound subdivisions; that on a later inspection some months later, and two weeks previous to the trial, there were found in three pounds of the candy a total of two rodent hairs and three insect larva and fragments.

"As to count V testimony was offered tending to show that in a total of two pounds of candy sampled, seven rodent hairs were found, as well as two insect fragments, and a fragment resembling a rodent pellet. We can not say that there was no evidence supporting the judgment of the trial court. The convictions on counts II and V are sustained.

"Since two non-concurrent fines were validly levied on individual defendant Kennepohl, the assessed total of his Five Hundred Dollar fine remains unchanged, though the judgment is reversed as to counts III, IV, VI and VII. Since only two valid Five Hundred Dollar fines were levied on the corporate defendant Triangle Candy Company, the total fine imposed on it must be reduced from Fifteen Hundred Dollars to One Thousand Dollars.

"The judgment against Kennepohl is affirmed as to Counts II and V; as to counts III, IV, VI and VII it is reversed. The judgment against Triangle Candy Company is affirmed as to counts II and V; as to counts III, IV, VI and VII it is reversed."

**8844. Adulteration of candy. U. S. v. 3 Cartons of Candy (and 2 other seizure actions against candy). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15319, 15352, 15367. Sample Nos. 11347-H, 11430-H to 11434-H, incl., 11713-H.)

**LIBELS FILED:** Between February 26 and March 12, 1945, Districts of Maine, Rhode Island, and New Hampshire.

**ALLEGED SHIPMENT:** Between the approximate dates of January 10 and February 17, 1945, by the Hedison Bros. Confectionery Co., from Boston, Mass.

**PRODUCT:** 3 30-pound cartons of candy at Brunswick, Maine; 32 10-pound cartons, 8 12-pound cartons, and 11 35-pound containers, of candy at Providence, R. I.; and 4 35-pound cartons of candy at Nashua, N. H.

**LABEL, IN PART:** "Peanut Brittle," or "Chocolate Victory [or "Covered Nut & Fruit Victory"] Mixture."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it



had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 23 and April 17, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8845. Adulteration of candy. U. S. v. 8 Cases of Candy (and 1 other seizure action against candy). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15199, 15252, 15381. Sample Nos. 27520-H, 28229-H, 28230-H.)

**LIBELS FILED:** February 6 and 28, 1945, Eastern and Western Districts of Washington.

**ALLEGED SHIPMENT:** On or about January 13 and 17, 1945, by Mello-Sweets, Inc., from Portland, Oreg.

**PRODUCT:** 132 1-pound bars of candy at Seattle, Wash., and 8 cases, each containing 20 1-pound boxes and 10 2-pound boxes, of candy at Wenatchee, Wash.

**LABEL, IN PART:** (Portion) "Valentine Candies," or "Mello-Sweets Inc. Nut Log."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 15 and April 28, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8846. Adulteration of candy. U. S. v. 189 Boxes and 167 Boxes of Candy. Default decree of condemnation. Product ordered disposed of by the United States marshal.** (F. D. C. No. 15675. Sample Nos. 18401-H, 18402-H.)

**LIBEL FILED:** March 26, 1945, District of South Dakota.

**ALLEGED SHIPMENT:** On or about February 21, 1945, by Close and Co., from Chicago, Ill.

**PRODUCT:** 356 boxes of candy at Sioux Falls, S. Dak.

**LABEL, IN PART:** "Drop Kicks Assorted Flavors," or "Close's Root Beer Barrels Candy with Flavor."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and hairs resembling rodent hairs.

**DISPOSITION:** May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of by the United States marshal.

**8847. Adulteration of licorice candy. U. S. v. 30 Boxes of Licorice Candy (and 3 other seizure actions against licorice candy). Default decrees of destruction.** (F. D. C. Nos. 15648 to 15651, incl. Sample Nos. 18331-H, 18332-H, 18871-H, 18872-H, 18874-H.)

**LIBELS FILED:** March 23 and 24, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** Between the approximate dates of January 23 and March 2, 1945, by the Licorice Products Co., from Dubuque, Iowa.

**PRODUCT:** 242 boxes of licorice candy at Minneapolis, Minn., and 46 boxes and 3 drums of the same product at St. Paul, Minn.

**LABEL, IN PART:** "120 Count 1 Cent Each Four Aces," "24 Count 5¢ Each Imps," or "Licorice Rolls."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 8 and 13, 1945. No claimant having appeared, judgments were entered ordering that the product be destroyed.



**8848. Adulteration and misbranding of candy. U. S. v. 8 Cases and 49 Cartons of Candy. Default decrees of condemnation. Portion of product ordered destroyed; remainder ordered delivered to charitable institutions.** (F. D. C. Nos. 15680, 15702. Sample Nos. 31033-H, 32034-H.)

**LIBELS FILED:** March 28 and 31, 1945, Districts of Oregon and Kansas.

**ALLEGED SHIPMENT:** On or about February 26 and March 8, 1945, by Confections of California, from Chatsworth, Calif.

**PRODUCT:** 8 cases at Pittsburg, Kans., and 49 cartons at Portland, Oreg., each containing 24 8-ounce cans of candy. The product was packed in three layers, with an excessive amount of space between the top layer of the candy and the top of the can. In addition, the Portland lot contained rodent hairs.

**LABEL, IN PART:** "Brunch-Crunch Delicious Honey-Nut Confection."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product in the Portland lot consisted in whole or in part of a filthy substance.

Misbranding, Section 403 (d), the containers in all lots were so filled as to be misleading since there was an excessive amount of unfilled space in them.

**DISPOSITION:** May 9 and July 13. No claimant having appeared, judgments of condemnation were entered, and it was ordered that the Portland lot be destroyed and that the Pittsburg lot be delivered to charitable institutions.

**8849. Misbranding of candy. U. S. v. 402 Boxes of Candy. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15773. Sample No. 814-H.)

**LIBEL FILED:** April 5, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about March 9, 1945, by the Brock Candy Co., from Chattanooga, Tenn.

**PRODUCT:** 402 boxes, each containing 24 candy bars at Atlanta, Ga. The candy was a chocolate-coated roll containing peanuts. It was placed on a cardboard strip and was loosely wrapped in a printed, yellow glassine wrapper. The cardboard strip was about  $\frac{3}{8}$ -inch wider than the candy, and the manner of wrapping gave the impression that the candy bar was much larger than was actually the case.

**LABEL, IN PART:** (Bar wrapper) "Brock A Nut Roll Enrobed in a Delicious Coating [or "Chocolate Covered Nut Roll"]."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the candy was so filled as to be misleading since there was an excessive amount of unfilled space in the wrapper.

**DISPOSITION:** April 11, 1945. The Brock Candy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be repackaged and relabeled under the supervision of the Food and Drug Administration.

**8850. Misbranding of pecan brittle. U. S. v. 5 Cases of Pecan Brittle. Default decree of forfeiture. Product ordered distributed to hospitals.** (F. D. C. No. 15324. Sample No. 906-H.)

**LIBEL FILED:** February 27, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about January 25, 1945, by Stuckey's, from Eastman, Ga.

**PRODUCT:** 5 cases, each containing 60  $\frac{1}{2}$ -pound boxes, of pecan brittle at Miami, Fla.

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the candy was so filled as to be misleading since only half the space in the box was filled.

**DISPOSITION:** April 6, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered distributed to hospitals.

#### SIRUPS AND SUGARS

**8851. Adulteration of cane sugar sirup. U. S. v. 1,205 Cases of Cane Sugar Syrup. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15308. Sample No. 310-H.)

**LIBEL FILED:** March 1, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about January 28, 1944, by Brower & Fuller, from Indianapolis, Ind.

**PRODUCT:** 1,205 cases, each containing 6 1-quart, 1-pint, 8-ounce jars, of cane sugar sirup at Sanford, Fla.



**LABEL, IN PART:** "Veri-Sweet Cane Sugar Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold.

**DISPOSITION:** July 11, 1945. The Wight Grocery Co., Sanford, Fla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8852. Misbranding of sirup. U. S. v. 201 Cases and 140 Cases of Syrup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15679. Sample Nos. 31013-H, 31511-H.)**

**LIBEL FILED:** March 24, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about December 30, 1944, by E. R. Crone, from Winnsboro, Tex.

**PRODUCT:** 341 cases, each containing 12 jars, of sirup at Los Angeles, Calif. Analysis showed that the jars contained corn sirup, and that they were short volume.

**LABEL, IN PART:** (Jars) "Crone's Sorghum [or "Ribbon Cane"] Syrup \* \* \* 1½ Pints."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "Sorghum Syrup" and "Ribbon Cane Syrup," were false and misleading as applied to mixtures consisting of sorghum sirup and corn sirup, and cane sirup and corn sirup, respectively; and, Section 403 (e) (2), the products failed to bear labels containing an accurate statement of the quantity of the contents.

**DISPOSITION:** April 19, 1945. B. B. Emerson, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**8853. Adulteration and misbranding of sirup. U. S. v. 90 Cases of Syrup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15614. Sample No. 28441-H.)**

**LIBEL FILED:** On or about March 13, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 26, 1945, by the Bev Co., from Jersey City, N. J.

**PRODUCT:** 90 cases, each containing 12 1-pint bottles, of cane sugar sirup at Tacoma, Wash. Analysis showed that the product was a mixture of sugar or sugars and water, and that it contained no maple sirup but was artificially colored and flavored to simulate an article containing an adequate amount of maple sirup. The product contained less sugar than is contained in maple or cane sugar sirup.

**LABEL, IN PART:** "North Woods Pure Pancake Syrup A 100% Pure Cane Sugar Syrup with an imitation maple base of vegetable origin reproducing the aroma of maple sap."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, sugar, had been in part omitted from the product.

Misbranding, Section 403 (a), the label statement, "North Woods Pure Pancake Syrup," was misleading as applied to a mixture of sugar or sugars and water which contained less sugar than is contained in cane sugar sirup or pancake cane sugar sirup, and which contained no maple sirup but was artificially colored and flavored to simulate maple sirup; and, Section 403 (k), the product contained artificial coloring and failed to bear labeling stating that fact.

**DISPOSITION:** April 24, 1945. The Bev Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**8854. Adulteration of sugar. U. S. v. 163 Bags of Sugar. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15473. Sample No. 17111-H.)**

**LIBEL FILED:** On or about March 13, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On September 6, 1944, from Gramercy, La.

**PRODUCT:** 163 100-pound bags of sugar at Chicago, Ill., in the possession of the Pan Confection Factory. This product had been stored under insanitary condi-



tions after shipment. Rodent excreta and urine stains were observed on the bags, and examination showed that the product had become contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 23, 1945. The National Candy Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by salvaging, denaturing, or other treatment, under the supervision of the Food and Drug Administration.

#### MISCELLANEOUS SACCHARINE PRODUCTS \*

**8855. Adulteration of cake chocolate. U. S. v. 78 Bales of Cake Chocolate. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15676. Sample No. 22903-H.)

**LIBEL FILED:** March 24, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about February 18, 1944, by Rockwood and Co., from Chicago, Ill.

**PRODUCT:** 78 bales, each containing 20 10-pound blocks, of cake chocolate at Davenport, Iowa.

**LABEL, IN PART:** "General Sweet Chocolate with Lecithin."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, insect excreta, and webbing.

**DISPOSITION:** April 4, 1945. The Crescent Macaroni and Cracker Co., Davenport, Iowa, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portions of the chocolate were cut off and destroyed.

**8856. Adulteration of chocolate coating. U. S. v. 15 Bales of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15677. Sample No. 22904-H.)

**LIBEL FILED:** March 24, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about November 3, 1943, by the Ambrosia Chocolate Co., from Milwaukee, Wis.

**PRODUCT:** 15 bales, each containing 20 10-pound bars, of chocolate coating at Davenport, Iowa.

**LABEL, IN PART:** "Ambrosia Thin Bar Dark Sweet Chocolate Coating."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, insect excreta, and webbing.

**DISPOSITION:** April 4, 1945. The Crescent Macaroni and Cracker Co., Davenport, Iowa, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portions of the chocolate were cut off and destroyed.

**8857. Misbranding of honey. U. S. v. 30 Cases of Honey. Consent decree of condemnation. Product ordered released under bond to be relabeled.** (F. D. C. No. 15478. Sample No. 24198-H.)

**LIBEL FILED:** On or about March 9, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about September 13, 1944, by the McGowen Products Co., from Jeanerette, La.

**PRODUCT:** 30 cases, each containing 24 jars, of honey at Mobile, Ala. Examination showed that the article was short of the declared weight.

**LABEL, IN PART:** "Net Wt. 16 Ozs. McGowen's Linden Brand Choice Honey."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

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\*See also No. 8837.



**DISPOSITION:** March 26, 1945. Alfred B. McGowen, trading as the McGowen Products Co., claimant, having admitted that the product was misbranded, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

## DAIRY PRODUCTS

### BUTTER

The following cases report actions involving butter that was adulterated in that it consisted in whole or in part of a filthy or decomposed substance, Nos. **8858 to 8860**; that was below the standard for milk fat content, Nos. **8859 and 8861 to 8872**; and that was short of the declared weight, Nos. **8864, 8865**.

**8858. Adulteration of butter, ice cream mix, and ice cream. U. S. v. Beatrice Creamery Co. (Meadow Gold Dairies). Plea of guilty. Defendant fined \$150 and placed on probation for 3 years.** (F. D. C. No. 15488. Sample Nos. 69323-F, 69327-F, 69342-F to 69344-F, incl.)

**INFORMATION FILED:** April 30, 1945, District of Montana, against the Beatrice Creamery Co., a corporation trading as the Meadow Gold Dairies, Billings, Mont.

**ALLEGED SHIPMENT:** Between the approximate dates of June 19 and 24, 1944, from the State of Montana into the State of Wyoming.

**LABEL, IN PART:** "Churning Cream for Meadow Gold Dairies," "Meadow Gold Butter," or "Meadow Gold Ice Cream."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of vegetable fibers, feather barbules, unidentified animal hairs, insect parts, rodent hairs, plant tissues, vegetable fibers resembling particles of wheat bran, hair resembling rodent hair, cat or dog hairs, and nondescript dirt; and, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** April 30, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$150 was imposed and the defendant was placed on probation for 3 years.

**8859. Adulteration of butter, and adulteration and misbranding of cottage cheese. U. S. v. Gold Coin Creamery Co. Plea of nolo contendere. Fine, \$1,050.** (F. D. C. No. 15567. Sample Nos. 69463-F, 85648-F to 85650-F, incl., 85834-F.)

**INFORMATION FILED:** July 12, 1945, District of Colorado, against the Gold Coin Creamery Co., a corporation, Denver, Colo.

**ALLEGED SHIPMENT:** Between the approximate dates of September 8 and 19, 1944, from the State of Colorado into the States of Nebraska and Wyoming.

**LABEL, IN PART:** "Fresh Cream White Rock Butter," or "White Rock Cottage Cheese."

**NATURE OF CHARGE:** Cottage cheese and a portion of the butter, adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence, in the butter, of insect fragments, a whole insect, rodent hairs, hairs resembling cat or dog hairs, feather barbules, nondescript dirt, a fly egg, and a fly maggot, and, in the cheese, of insect fragments, feather barbules, a larva hair, and nondescript dirt.

Further adulteration, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth. Remainder of butter, adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted or abstracted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), a portion of the cottage cheese failed to bear a label containing an accurate statement of the quantity of the contents since the cartons contained less than 12 ounces, the declared weight; and, Section 403 (g) (1), the remainder of the cottage cheese failed to conform to the definition and standard of identity for cottage cheese since it contained artificial color.



**DISPOSITION:** July 20, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$150 on each of the 7 counts, a total fine of \$1,050.

**8860. Adulteration of butter. U. S. v. 17 Cartons (544 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 10475. Sample No. 38912-F.)

**LIBEL FILED:** On or about July 22, 1943, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 6, 1943, by the Clinton Pure Butter Co., from Clinton, Iowa.

**PRODUCT:** 17 32-pound cartons of butter at Chicago, Ill.

**LABEL, IN PART:** "Creamery Butter Distributed by Dauber Bros. Chicago."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance.

**DISPOSITION:** July 22, 1943. Dauber Bros., claimant, having admitted the facts of the libel, judgment of condemnation was entered and the product was ordered released under bond for purification and conversion into butter oil under the supervision of the Food and Drug Administration.

**8861. Adulteration of butter and turkeys. U. S. v. Oliver G. Harp (O. G. Harp Poultry & Egg Co.). Plea of guilty to count 1 and not guilty to count 2. Tried to the court. Verdict of not guilty on count 2; fine of \$1,000 on count 1.** (F. D. C. No. 5568. Sample Nos. 31633-E, 46675-E.)

**INDICTMENT RETURNED:** April 9, 1942, Western District of Oklahoma, against Oliver G. Harp, trading as the O. G. Harp Poultry & Egg Co., Shawnee, Okla.

**ALLEGED SHIPMENT:** On or about November 1, 1940, and January 9, 1941, from the State of Oklahoma into the States of New York and Illinois.

**LABEL, IN PART:** "Medium Turkeys," or "Creamery Butter The Peter Fox Sons Co. \* \* \* Chicago, Ill."

**NATURE OF CHARGE:** Count 1, turkeys, adulteration, Section 402 (a) (5), the article was in whole or in part the product of diseased poultry.

Count 2, butter, adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 28, 1942. Pleas of guilty to the first count and not guilty to the second count having been entered, the second count was tried to the court and the defendant was found not guilty on that count. The defendant was fined \$1,000 for the violation charged in the first count.

**8862. Adulteration of butter. U. S. v. Dently D. Sorensen (Sorensen Creameries). Plea of guilty. Fine, \$1,000.** (F. D. C. No. 15512. Sample No. 87397-F.)

**INFORMATION FILED:** April 4, 1945, District of South Dakota, against Dently D. Sorensen, trading under the firm name Sorensen Creameries, Big Stone City, S. Dak.

**ALLEGED SHIPMENT:** On or about November 18, 1944, from the State of South Dakota into the State of Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 12, 1945. The defendant having entered a plea of guilty, the court imposed a fine of \$1,000.

**8863. Adulteration of butter. U. S. v. Pickerington Creamery, Inc. Plea of guilty. Fine, \$200.** (F. D. C. No. 15493. Sample Nos. 67590-F, 68596-F.)

**INFORMATION FILED:** April 9, 1945, Southern District of Ohio, against the Pickerington Creamery, Inc., Pickerington, Ohio.

**ALLEGED SHIPMENT:** On or about June 6 and September 12, 1944, from the State of Ohio into the State of Kentucky.

**LABEL, IN PART:** (Portion) "Mayflower Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2),



a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 24, 1945. A plea of guilty having been entered, the defendant was fined \$100 on each of the two counts, a total fine of \$200.

**8864. Adulteration and misbranding of butter. U. S. v. Cody Creamery Co. Plea of guilty. Fine, \$100. (F. D. C. No. 15489. Sample No. 69340-F.)**

**INFORMATION FILED:** April 23, 1945, District of Wyoming, against the Cody Creamery Co., a corporation, Cody, Wyo.; charging the defendant with the giving of a false guaranty. The guaranty was given by the defendant to the Beatrice Creamery Co., trading as the Meadow Gold Dairies, at Billings, Mont., on or about September 27, 1943. It provided that the article comprising each shipment or delivery made by the Cody Creamery Co. would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. Between the approximate dates of June 8 and 15, 1944, the defendant sold and delivered a quantity of butter to the Beatrice Creamery Co.; and on or about June 24, 1944, the Beatrice Creamery Co. shipped that butter from the State of Montana into the State of Wyoming. The butter so guarantied and shipped was adulterated and misbranded.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cartons contained less than 1 pound net weight, the amount declared on the label.

**DISPOSITION:** May 3, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$50 on each of 2 counts, a total of \$100, was imposed.

**8865. Adulteration and misbranding of butter. U. S. v. Joseph A. Hyst (Cloverland Dairy). Plea of guilty. Fine, \$400. (F. D. C. No. 15498. Sample Nos. 75945-F, 75946-F.)**

**INFORMATION FILED:** April 13, 1945, Southern District of Ohio, against Joseph A. Hyst, trading as the Cloverland Dairy, Flushing, Ohio.

**ALLEGED SHIPMENT:** On or about October 12, 1944, from the State of Ohio into the State of West Virginia.

**LABEL, IN PART:** (Packages) "One Pound Net Cloverland Brand Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the packages contained less than 1-pound net weight.

**DISPOSITION:** April 24, 1945. A plea of guilty having been entered, the defendant was fined \$400.

**8866. Adulteration of butter. U. S. v. 25 Boxes (1,650 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 7501. Sample No. 76860-E.)**

**LIBEL FILED:** April 22, 1942, District of Minnesota.

**ALLEGED SHIPMENT:** On or about April 14, 1942, by the Eureka Creamery, from Eureka, S. Dak.

**PRODUCT:** 25 66-pound boxes of butter at St. Paul, Minn.

**LABEL, IN PART:** "N. D. P. Packed For National Butter Co., Dubuque, Iowa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in whole or in part omitted or abstracted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 22, 1942. The Eureka Creamery, claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.



- 8867. Adulteration of butter. U. S. v. 27 Cubes (1,620 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 8119. Sample Nos. 10986-F, 10989-F.)**
- LIBEL FILED:** July 17, 1942, Northern District of California.
- ALLEGED SHIPMENT:** On or about July 7, 1942, by the Marwyn Dairy Products Corporation, from Barron, Wis.
- PRODUCT:** 12 60-pound cubes and 15 60-pound cubes of butter at San Francisco, Calif.
- NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION:** September 25, 1942. The Golden State Co., Ltd., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.
- 8868. Adulteration of butter. U. S. v. 16 Cubes (1,024 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 8120. Sample No. 10499-F.)**
- LIBEL FILED:** July 24, 1942, Northern District of California.
- ALLEGED SHIPMENT:** On or about July 10, 1942, by the Cass Clay Cooperative Creamery Association, from Moorhead, Minn.
- PRODUCT:** 16 64-pound cubes of butter at San Francisco, Calif.
- NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION:** August 4, 1942. The Wilsey Bennett Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.
- 8869. Adulteration of butter. U. S. v. 12 Cartons (768 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15774. Sample Nos. 5662-H, 18835-H.)**
- LIBEL FILED:** February 21, 1945, Southern District of New York.
- ALLEGED SHIPMENT:** On or about February 1, 1945, by the Farmers Cooperative Creamery Association, from Storden, Minn.
- PRODUCT:** 12 64-pound cartons of butter at New York, N. Y.
- LABEL, IN PART:** "Butter S. & W. Waldbaum Inc. Distributors 5013 New York, N. Y."
- NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION:** March 3, 1945. The Farmers Cooperative Creamery Association, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.
- 8870. Adulteration of butter. U. S. v. 37 Boxes (1,184 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15775. Sample Nos. 6088-H, 18836-H.)**
- LIBEL FILED:** March 1, 1945, Southern District of New York.
- ALLEGED SHIPMENT:** On or about February 7, 1945, by the Farmers Cooperative Creamery Co., Madison, S. Dak.
- PRODUCT:** 37 32-pound boxes of butter at New York, N. Y.
- LABEL, IN PART:** "Gagnon's \* \* \* Wm. C. Gagnon \* \* \* Butter."
- NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION:** March 15, 1945. The Eastern Cooperative Wholesale, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.
- 8871. Adulteration of butter. U. S. v. 12 Boxes and 10 Boxes (1,320 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 15777, 15782. Sample Nos. 13820-H, 13821-H.)**
- LIBELS FILED:** February 24 and March 6, 1945, Northern District of Ohio.
- ALLEGED SHIPMENT:** On or about February 14, 1945, by the Maple Valley Creamery, from Mapleton, Iowa.



**PRODUCT:** 22 60-pound boxes of butter at Cleveland, Ohio.

**LABEL, IN PART:** "Butter Sold by Stonehill Cr'y Cleveland, Ohio."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** March 13, 1945. The Stonehill Creamery Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**8872. Adulteration of butter. U. S. v. 70 Cubes (4,620 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 7999. Sample No. 10482-F.)**

**LIBEL FILED:** July 9, 1942, Northern District of California.

**ALLEGED SHIPMENT:** On or about June 24, 1942, by the National Butter Co., from Minnesota Transfer, Minn.

**PRODUCT:** 70 66-pound cubes of butter at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 4, 1942. The Wilsey Bennett Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

#### CHEESE \*

**8873. Adulteration of Cheddar cheese. U. S. v. 142 Cheeses. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15734. Sample No. 735-H.)**

**LIBEL FILED:** March 24, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about June 22, 1944, from Columbus, Miss.

**PRODUCT:** 142 cheeses, each weighing about 70 pounds, at Atlanta, Ga., in the possession of the Atlantic Co. This product had been stored under insanitary conditions after shipment. The cheeses had been gnawed by rodents, and rodent pellets and several rodent nests were observed on them. One of the nests contained seven live rodents.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 20, 1945. The Atlantic Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the fit portion be separated from the unfit, and that the unfit portion be disposed of as animal feed or industrial fats, under the supervision of the Food and Drug Administration.

**8874. Adulteration of Cheddar cheese. U. S. v. 56 Cheddar Cheeses and 1 Daisy of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15736. Sample Nos. 542-H to 545-H, incl., 736-H to 738-H, incl.)**

**LIBEL FILED:** March 24, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of September 23, 1943, and August 16, 1944, from Walnut, Olive Branch, Columbus, and Corinth, Miss.; Scottsboro, Ala.; and Nashville and Columbia, Tenn.

**PRODUCT:** 56 Cheddar cheeses, weighing about 70 pounds each, and 1 daisy of Cheddar cheese, weighing about 21½ pounds, at Atlanta, Ga., in the possession of the Atlantic Co. Cold Storage. The product was stored under insanitary conditions after shipment. All lots were gnawed by rodents, and rodent excreta was found on the surface of the cheeses and in the holes gnawed by the rodents. Rodent nests containing dead rats were found in portions of the product.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been stored under insanitary conditions whereby it may have become contaminated with filth.

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\*See also No. 8859.



**DISPOSITION:** April 20, 1945. The Atlantic Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the segregation and disposal of the unfit portion for use as animal feed or industrial fats, under the supervision of the Food and Drug Administration.

**8875. Adulteration and misbranding of Cheddar cheese. U. S. v. 12 Cheddar Cheeses. Default decree of forfeiture. Product ordered disposed of by the United States marshal. (F. D. C. No. 15698. Sample No. 18952-H.)**

**LIBEL FILED:** March 28, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about January 30, 1945, by the Belle Center Creamery and Cheese Co., from Belle Center, Ohio.

**PRODUCT:** 12 Cheddar cheeses at Thorp, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing excessive moisture and deficient in milk fat had been substituted in whole or in part for Cheddar cheese, which it was represented to be.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for Cheddar cheese, which provides that Cheddar cheese shall contain not more than 39 percent of moisture, and that its solids shall contain not less than 50 percent of milk fat. The product contained more than 39 percent of moisture and its solids contained less than 50 percent of milk fat.

**DISPOSITION:** May 2, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed or disposed of at the discretion of the United States marshal. The cheese was sold for use in public institutions.

**8876. Adulteration and misbranding of Cheddar cheese. U. S. v. 533 Boxes of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15697. Sample No. 22826-H.)**

**LIBEL FILED:** March 26, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about February 8, 1945, by the Dairy Products Marketing Association, from Blackwell, Okla.

**PRODUCT:** 533 boxes, each containing 77 pounds, of Cheddar cheese at St. Louis, Mo. Analysis showed that the article failed to meet the standard of identity for Cheddar cheese in that its solids contained less than 50 percent of milk fat.

**LABEL, IN PART:** "Oklahoma White Cheddar Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an article deficient in milk fat had been substituted in whole or in part for Cheddar cheese, which it was represented to be.

Misbranding, Section 403 (g) (1), the product purported to be and was represented as Cheddar cheese, a food for which a definition and standard of identity has been prescribed by regulation, but it failed to conform to such definition and standard.

**DISPOSITION:** On or about June 1, 1945, Wilson & Co., Inc., Chicago, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for manufacture into processed cheese in conformity with the law, under the supervision of the Food and Drug Administration.

**8877. Adulteration and misbranding of Cheddar cheese. U. S. v. 34 Boxes of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15681. Sample Nos. 18856-H, 18857-H, 18876-H, 18877-H.)**

**LIBEL FILED:** March 28, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 25 and February 1, 1945, by the Wuethrich Brothers, from Doylestown, Wis.

**PRODUCT:** 24 boxes and 10 boxes of Cheddar cheese, each box containing 4 cheeses, at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing excessive moisture had been substituted in whole or in part for Cheddar cheese, which it was represented to be.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for Cheddar cheese since it contained more than 39 percent of moisture, the maximum permitted by the regulations.



**DISPOSITION:** June 6, 1945. Walter A. Treptow, trading as the Gravelstone Cheese Factory, claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**8878. Adulteration and misbranding of Cheddar cheese. U. S. v. 12 Boxes of Cheddar Cheese. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 15644. Sample Nos. 20331-H, 20338-H.)

**LIBEL FILED:** On or about March 26, 1945, District of Kansas.

**ALLEGED SHIPMENT:** On or about February 19, 1945, by Swift & Co., from Springfield, Mo.

**PRODUCT:** 12 50-pound boxes of Cheddar cheese, each box containing 4 cheeses, at Kansas City, Kans.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an article deficient in milk fat had been substituted in whole or in part for Cheddar cheese, which it was represented to be.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for Cheddar cheese since it contained in its solids less than the minimum of 50 percent milk fat permitted by the standard.

**DISPOSITION:** July 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

**8879. Adulteration of cheese spread. U. S. v. 5,856 Pounds of Cheese Spread. Default decree of condemnation and destruction.** (F. D. C. No. 15639. Sample No. 16903-H.)

**LIBEL FILED:** On or about April 5, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about February 15, 1945, by the Lakeshire-Marty Co., from Plymouth, Wis.

**PRODUCT:** 5,856 pounds of cheese spread at Sterling, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of varicolored molds and the odor of ammonia.

**DISPOSITION:** June 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### MISCELLANEOUS DAIRY PRODUCTS \*

**8880. Adulteration of cream. U. S. v. Luther M. Strickler (Strickler Produce). Plea of guilty. Fine, \$100.** (F. D. C. No. 15538. Sample Nos. 85826-F, 85829-F.)

**INFORMATION FILED:** June 13, 1945, District of Wyoming, against Luther M. Strickler, trading as Strickler Produce, Wheatland, Wyo.

**ALLEGED SHIPMENT:** On or about September 6 and 9, 1944, from the State of Wyoming into the State of Colorado.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of feather barbules, rodent-like hairs, insect parts, a cat-like hair, nondescript dirt, vegetable fiber, plant particles, ants, manure particles, and an insect.

**DISPOSITION:** June 27, 1945. A plea of guilty having been entered, the defendant was fined \$50 on each of 2 counts, a total fine of \$100.

**8881. Adulteration of cream. U. S. v. 1 10-Gallon Can of Cream. Consent decree of destruction.** (F. D. C. No. 10343. Sample No. 36781-F.)

**LIBEL FILED:** May 24, 1943, District of Colorado.

**ALLEGED SHIPMENT:** On or about May 21, 1943, by Fox Produce, from Kearney, Nebr.

**PRODUCT:** 1 10-gallon can of cream at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, decomposed, and putrid animal substance by reason of the presence of a fly part, plant fiber, nondescript dirt, rodent hairs, a mite, and feather barbules.

**DISPOSITION:** May 24, 1943. The consignee having consented to the immediate destruction of the cream, judgment was entered ordering that the product be destroyed.

\*See also No. 8858.



**8882. Adulteration of evaporated milk. U. S. v. 2,142 Cases of Evaporated Milk. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15754. Sample No. 216-H.)**

**LIBEL FILED:** April 11, 1945, Eastern District of North Carolina.

**ALLEGED SHIPMENT:** On or about October 27, 1944, by the Fireproof Storage and Van Co., from Knoxville, Tenn.

**PRODUCT:** 2,142 cases, each containing 48 cans, of evaporated milk at Raleigh, N. C. The product had been damaged by flood prior to its shipment from Knoxville. When it was examined, it was found to be undergoing progressive decomposition.

**LABEL, IN PART:** (Cans) "Pet Irradiated Evaporated Milk."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 18, 1945. James Heonis, Raleigh, N. C., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be destroyed or brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8883. Adulteration of nonfat dry milk solids. U. S. v. 370 Barrels of Non-Fat Dry Milk Solids. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15709. Sample No. 5985-H.)**

**LIBEL FILED:** March 16, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 30, 1945, by the Calder Creamery Co., from Craig, Colo.

**PRODUCT:** 370 150-pound barrels of nonfat dry milk solids at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, feather barbules, and hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 17, 1945. H. L. Barker & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as poultry or animal feed, under the supervision of the Federal Security Agency.

**8884. Adulteration of American Spread. U. S. v. 994 Boxes of American Spread. Default decree of condemnation and destruction. (F. D. C. No. 14489. Sample No. 54667-F.)**

**LIBEL FILED:** On or about December 8, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 13, 1944, by the Conestoga Cream and Cheese Manufacturing Corporation, from Lima, Ohio.

**PRODUCT:** 994 3-pound boxes of American Spread at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8885. Adulteration and misbranding of oleomargarine. U. S. v. 238 Cases of Oleomargarine. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15202. Sample No. 22516-H.)**

**LIBEL FILED:** February 9, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about January 11, 1945, by the Miami Margarine Co., from Cincinnati, Ohio.

**PRODUCT:** 238 cases, each containing 30 1-pound cartons, of oleomargarine at Memphis, Tenn.

**LABEL, IN PART:** "Table Grade Nu-Maid Vegetable Oleomargarine."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an article containing less than 80 percent of fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard for oleomargarine since it contained less than 80 percent of fat.



**DISPOSITION:** February 23, 1945. The Miami Margarine Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Federal Security Agency.

### EGGS

**8886. Adulteration of whole eggs. U. S. v. The Bakery Mart of Newark, Inc., and Samuel Greenbaum. Pleas of not guilty. Tried to the court. Verdict of guilty. Corporate defendant fined \$500; individual defendant fined \$300 and sentenced to 3 months in jail. Judgment against individual defendant affirmed on appeal. (F. D. C. No. 7669. Sample Nos. 90801-E, 90802-E.)**

**INFORMATION FILED:** September 2, 1942, District of New Jersey, against the Bakery Mart of Newark, Inc., a corporation, Newark, N. J., and Samuel Greenbaum, president of the corporation.

**ALLEGED SHIPMENT:** On or about January 23 and February 2, 1942, from the State of New Jersey into the States of Massachusetts and Rhode Island.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** Pleas of not guilty having been entered on behalf of the defendants, the case came on for trial before the court on January 26, 1943. At the conclusion of the testimony, the court took the case under advisement, and on February 10, 1943, the court found the defendants guilty. On February 19, 1943, the corporate defendant was fined \$500, and the individual defendant was fined \$300 and sentenced to serve 3 months in jail. Notice of appeal from the judgment against the individual defendant was filed in the United States Circuit Court of Appeals for the Third Circuit, and on October 25, 1943, after consideration of the briefs and arguments of counsel, the following decision was handed down by that court, affirming the judgment of the district court:

**BIGGS, Circuit Judge:** "An information was filed against the appellant, Samuel Greenbaum, president of The Bakery Mart of Newark, Inc., and against that company, charging him and it, in two counts, with unlawfully introducing and delivering for introduction in interstate commerce cans of adulterated (i. e., rotten) eggs. The pertinent statutory provisions are set out below.<sup>2</sup> At the close of the case a motion was made on behalf of both defendants to dismiss the information and for a directed verdict on the grounds that the information did not charge a crime and that the proofs offered were insufficient to sustain a conviction. The motion was denied. The appellant

<sup>2</sup> See the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. A. as follows:

Section 331,

"The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded."

Section 342,

"A food shall be deemed to be adulterated—

(a) (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food ;"

Section 321,

"(f) The term 'food' means (1) articles used for food or drink for man or other animals."

Section 333,

"(a) Any person who violates any of the provisions of section 331 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine,

"(b) Notwithstanding the provisions of subsection (a) of this section, in case of a violation of any of the provisions of section 331, with intent to defraud or mislead, the penalty shall be imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

"(c) No person shall be subject to the penalties of subsection (a) of this section, (2) for having violated section 331 (a) or (d), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect, in case of an alleged violation of section 331 (a), that such article is not adulterated or misbranded, within the meaning of this chapter, designating this chapter . . ."

Section 335,

"Before any violation of this chapter is reported by the administrator to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding."



and the company were found guilty on both counts. Greenbaum was sentenced to pay a fine of \$300 and to three months imprisonment. He has appealed.

"The information did not charge that he knew that the eggs were rotten when he shipped them into interstate commerce. No proof was offered of guilty knowledge on his part. He contends that for these reasons the judgment should be reversed.

"Whether allegation and proof of *mens rea* is requisite to a conviction for a crime which carries with it a possible sentence to penal servitude depends upon the legislative intent evidenced by the statute which defines and punishes the particular offense. *United States v. Balint*, 258 U. S. 250, 252. The constitutional requirement of due process is not violated merely because *mens rea* is not a required element of a prescribed crime. *Shevlin-Carpenter Co. v. Minnesota*, 218 U. S. 57, 69, 70; *United States v. Balint*, *supra*, at p. 252.

"While the absence of any requirement of *mens rea* is usually met with in statutes punishing minor or police offenses (for which fines, at least in the first instance, are ordinarily the penalties) we think that interpretation of legislative intent as dispensing with the knowledge and wilfulness as elements of specified crimes is not to be restricted to offenses differentiable upon their relative lack of turpitude. Where the offenses prohibited and made punishable are capable of inflicting widespread injury, and where the requirement of proof of the offender's guilty knowledge and wrongful intent would render enforcement of the prohibition difficult if not impossible (i. e., in effect tend to nullify the statute), the legislative intent to dispense with *mens rea* as an element of the offense has justifiable basis. Notable among such offenses are dealings in adulterated foods and drugs. Cf. *United States v. Balint*, *supra*, pp. 252-253; see also *Public Welfare Offenses*, Sayre, 33 *Columbia Law Rev.*, 55, 70, et seq., and *Ignorance and Mistake in Criminal Law*, Perkins, 88 *Univ. of Pa.*, 35, 38, et seq.

"The statute under which the appellant was indicted, convicted and sentenced, makes no specific requirement of allegation or proof of the offender's knowledge and wilfulness. While the failure so to provide does not necessarily determine that guilt of the offense may be established without such allegation and proof,<sup>3</sup> we conclude that the requirement of § 335, that, before criminal prosecution for a violation of the statute may be instituted, the person against whom such proceeding is contemplated shall be given an opportunity by the Administrator to present his views with regard to such contemplated proceeding<sup>4</sup>, negatives any idea that proof of guilty knowledge and wrongful intent at trial of an offense under § 333 (a) is necessarily implicit. The prescribed inquiry, a preliminary requisite to prosecution, is designed to search out the possible innocent mind of the particular offender by establishing before trial, his good faith or the extent of his actual knowledge and wilfulness.

"We cannot agree with the contention of the government that the fact that an offense under § 333 (b), which deals with the introduction of a prohibited article in interstate commerce 'with intent to defraud or mislead', is more severely punished than the first offense under § 333 (a) furnishes an implication that under § 333 (a), proof of the alleged offender's knowledge and wilfulness is not intended. If 'intent to defraud or mislead' embraced all instances where there was knowledge or wilfulness, then the argument, based on the inclusion of the requirement in the one instance and its exclusion in the other, would be both pertinent and cogent. But, conceivably, there can be instances where the introduction of a prohibited article in interstate commerce is with knowledge and wilfulness and yet without intent to deceive or mislead, e. g., where the consignee of the shipment knows what he is getting and gets what he wants. Hence, the alleged distinction seems possibly to contain the reverse implication.

"Also, it must be conceded that the case of *Baender v. Barnett*, *supra*, upon which the appellant principally relies, is difficult to reconcile with a statutory construction which dispenses with the need of the offender's knowledge and wilfulness. The statute involved in the *Baender* case made penal the possession, without lawful authority, of any die in the likeness or similitude of a die designated for making genuine coin of the United States. There is no requirement in that statute that the condemned possession shall be with the possessor's knowledge and wilfulness. But the Supreme Court said that 'the statute is not intended to include and make criminal a possession which is

<sup>3</sup> See *Baender v. Barnett*, 255 U. S. 224.

<sup>4</sup> See grounds for exculpation specified in § 333 (c).



not conscious and willing.' The basis for the construction thus placed upon the statute in the Baender case is not easy to differentiate. Counterfeiting is a direct and serious affront to the sovereign and usually perpetrated with effort at greatest secrecy, but the particular statutory provision<sup>5</sup> had originally contained the qualifying words 'with intent to fraudulently and unlawfully use the same', which were eliminated when the subject matter of the original statute was incorporated in the Criminal Code,—a circumstance that might well have been taken to confirm that the deletion was designedly purposeful. None the less, on the authority of *United States v. Balint, supra*, we conclude that the construction of the statute before us presents no more than a question of legislative intent<sup>6</sup> and we perceive an intent in § 333 (a) to punish persons who introduced adulterated foods into interstate commerce regardless of their lack of knowledge or wilfulness.

"In construing Section 2 of the Food and Drugs Act of 1906, 21 U. S. C. A. § 2, courts have held that guilty knowledge was not necessary to sustain a conviction. See *Strong, Cobb & Co. v. United States* (C. C. A. 6, 1939) 103 F. 2nd 671, and *United States v. Sprague* (D. C. E. D. N. Y., 1913) 208 F. 419. The analogy is obvious."

**8887. Alleged adulteration of dried whole eggs. U. S. v. 5 Barrels of Dried Whole Eggs (and 2 other seizure actions against dried whole eggs). Tried to the court. Verdict for claimant. Decree ordering the dismissal of the libels and the release of the product.** (F. D. C. Nos. 8617, 9163. Sample Nos. 1417-F, 7315-F.)

**LIBELS FILED:** On or about October 22, 1942, and January 13, 1943, Northern District of Illinois and Eastern District of Wisconsin; two libels amended on or about July 1, 1943, to include a prayer for injunctive relief.

**ALLEGED SHIPMENT:** The lot of 5 barrels was shipped by the Wisconsin Dried Egg Co. on or about October 26, 1942, from Oconto, Wis. The remainder of the product was alleged to be in interstate commerce in that it was segregated, identified, and tendered for delivery pursuant to a contract of sale between the Wisconsin Dried Egg Co., vendor, and the Federal Surplus Commodities Corporation, vendee.

**PRODUCT:** 5 barrels at Chicago, Ill., and 47 barrels and 184 barrels at Oconto, Wis., each barrel containing 175 pounds of dried whole eggs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of decomposed eggs.

**DISPOSITION:** On May 25, 1943, the Wisconsin Dried Egg Co. having appeared as claimant in each of the libel actions and having requested the removal of the Illinois action to the Eastern District of Wisconsin for consolidation with the libel actions pending there, an order of removal was entered by the District Court of the United States for the Northern District of Illinois. The claimant filed an answer denying that the 47-barrel and 184-barrel lots were in interstate commerce, and further denying that the product was adulterated. The case came on for trial before the court on or about July 1, 1943, and at the conclusion of the trial on July 3, 1943, the court took the matter under advisement. On December 22, 1943, after consideration of the evidence and briefs of counsel, the court handed down the following decision:

**DUFFY, District Judge:** "This case is a consolidation of three in rem proceedings under Sec. 304 (a) of the Federal Food, Drug, and Cosmetic Act (21 U. S. C., Sec. 334 (a)). The claimant, Wisconsin Dried Egg Company of Oconto,

<sup>5</sup> § 169 of the Criminal Code, c. 127, Sec. 1, 26 Stat. 742.

<sup>6</sup> The legislative history of the statute throws some light on the nature of the penalties. The report to the House of Representatives of Congressman Lea, Chairman of the House Committee on Interstate and Foreign Commerce, (Report No. 2139, to accompany S. 5, 75th Cong. 3rd Sess., p. 4), contains the statement, "[Section 333] . . . increases substantially the criminal penalties of the present law [the Food and Drugs Act of June 30, 1906, 34 Stat. 768, as amended, 21 U. S. C. A. §§ 1-15] which some manufacturers have regarded as substantially a license fee for the conduct of an illegitimate business. Appropriate exemptions are provided for dealers who innocently receive and distribute illegal goods." During the debate upon the bill Congressman Lea stated (Cong. Record, Vol. 83, Part 7, 75th Cong., 3rd Sess., 7775), "Then increased penalties are provided. Under the present law, as I recall, the maximum penalty is \$500 and the ordinary penalty is \$300. The bill we report fixes a maximum penalty of \$10,000 and a maximum time in jail of 3 years instead of 1 year as under the present law."

"The main object of so increasing these penalties is to provide suitable penalties due to the changed conditions since 1906. We have a great many institutions manufacturing drugs and foods that are very strong financially and we thought these higher penalties are justified in view of present conditions and to cover cases of the persistent violator."



Wisconsin, filed an answer denying that the eggs in actions Nos. 852 and 853 were in interstate commerce, and further denying adulteration in all three proceedings.

"Sec. 304 (a) of the act provides:

Seizure. Any article of food . . . that is adulterated or misbranded when introduced into or while in interstate commerce, . . . shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: . . .

"The eggs had been gathered by claimant from within the State of Wisconsin and were processed at claimant's plant in this State. The five barrels in Action No. 1111 were shipped to Chicago, Illinois, and there seized, and of course were in interstate commerce. However, the eggs in Actions Nos. 852 and 853 have never been outside the State of Wisconsin. They have never been offered to a common carrier for shipment, and in fact never left the property of the claimant. Under the terms of the contract between the claimant and the Federal Surplus Commodity Corporation, the claimant agreed to supply a certain number of pounds of spray dried whole eggs, but the contract provides for inspection by government agents prior to the delivery date. After inspection, the eggs in question were rejected. No shipping instructions were ever given and no bill of lading was ever issued. Additional marking and labeling remained to be added. It is my opinion that the eggs in Actions Nos. 852 and 853 had not been introduced into and were not in interstate commerce.

"At the commencement of the trial, after the court had expressed doubt on the jurisdictional question of interstate commerce, plaintiff's attorney moved that the prayer for condemnation be amended by the addition of an alternate prayer for injunctive relief, in the event that the prayer for condemnation were denied on jurisdictional grounds. The government and the claimant were in court ready to present their witnesses on the merits. Both prayers for relief grew out of the same transaction. The basic issues of adulteration were identical. If the court ruled adversely to the government on the jurisdictional question, it would have been necessary to start a new action for injunctive relief, in which the same testimony would have been presented. The government and the Wisconsin Dried Egg Company would be parties to both actions. As the plaintiff well states the situation, 'Both prayers for relief involve the same transaction, the same res, the same parties, the same court, the same evidence, and the same issues, save that the amendment injected one additional issue as to the appropriateness of issuing a statutory injunction.' The issuance of an injunction is authorized under Sec. 302 (a) of the act (21 U. S. C. Sec. 332 (a)). It was believed that time and expense would be saved to all concerned by proceeding with the trial, and withholding a ruling on the motion to amend; and this was done. Claimant objected to the amendment on the ground it changed an in rem action to one in personam. It did not ask for an extension of time and, after its objection was overruled, it presented evidence on the merits.

"There can be no doubt that while the seizure action was pending, a separate suit for injunctive relief could have been commenced in this court. It would then have been appropriate for the court to have ordered a consolidation. 28 U. S. C., Sec. 734; Rule 42 (a) F. R. C. P.

"Where a party is before the court in an in rem proceeding, the court has the power to render an in personam judgment against him. *Hipolite Egg Co. v. United States*, 220 U. S. 45. It has likewise been held that the distinction between the proceedings in rem and in personam have no proper relation to the question of jurisdiction. *Hipolite case*, supra. While the court may refrain from exercising such power if by so doing it would impair substantial rights, yet where it will further the ends of justice and eliminate multiplicity of action and save expense to the parties, it should be invoked. As was well stated by the court in *Bee Mach. Co., Inc., v. Freeman*, 131 F. (2d) 190, 194:

Allowing the amendment, then, provides in effect only a convenient short cut to a result attainable in a more round-about way. . . .

"Sec. 304 (b) of the Federal Food, Drug, and Cosmetic Act (21 U. S. C., Sec. 334 (b)) provides:

. . . procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty: . . .

"There is authority that where a claimant in admiralty has intervened in an in rem proceeding and filed a general appearance, the libellant may amend his libel so as to seek relief in personam as well as in rem. *The Monte A*, 12 Fed. 331. It has also been held that the avoidance of multiplicity of action by



every device that is jurisdictionally possible should be one of the main objectives of the courts of admiralty. *Munson Island Lines, Inc. v. Insurance Co. of North America*, 36 F. (2d) 269.

"Allowing the amendment to introduce a closely related cause of action against a resident defendant already before the court in effect merely dispensed with personal service which could have been had at any time. The amendment will be allowed.

"Proceeding now to the merits, Sec. 402 (a) of the act in question (21 U. S. C., Sec. 342 (a)) provides:

A food shall be deemed to be adulterated— . . . (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; . . .

"Plaintiff contends that the dried whole eggs in question did consist in part of decomposed eggs, and that whether they were fit or unfit for food is beside the point. Claimant contends that while there was a trace of fermentation, and some odor (which it claims to be characteristic of such products), it denies there was any decomposition of the eggs, and contends that the food was fit for human consumption.

"The egg powder in question, when seized, was not injurious to health when used as a food product. Two containers of egg powder were sent to the Home Economics Department of the University of Wisconsin for testing. Ordinary uncondemned egg powder was put in Container 'A', while egg powder from the condemned barrels was put in Container 'B'. Professor Personius who made the tests was not informed as to which container held the condemned powder. On opening the containers she noticed that 'B' had a somewhat fishy odor. She baked a custard from each sample and obtained satisfactory results. The finished products had no unpleasant odor. She also baked butter cakes from each sample, one batch being baked the night before she testified in court.

"The cakes were cut open in court. They were satisfactory in taste and texture, and no appreciable difference in the finished bakery products could be noted. Samples of the cakes made from the condemned egg powder were eaten with no ill effects.

"With permission of government officials, eleven barrels of the original seizure of 47 barrels had been shipped to Chicago. Six of these barrels had been used by bakers prior to the time the remaining five barrels were seized in Action No. 1111. Louis Nieman, whose business is wholesale bakery supplies, was the purchaser. He had many years of experience in dealing in dried egg powder, and egg albumen (dried white of eggs), and over the years has imported large amounts of these products from China. He testified he was satisfied with the egg powder in question and described the odor as a characteristic cold storage odor. He paid 92¢ a pound for the first barrel of powder purchased and 88¢ a pound for the other barrels, at a time when the going price of ordinary egg powder ranged from 87¢ to 95¢ a pound. He expressed the opinion that the powder was not decomposed, and said he judged it by its smooth texture and color as well as the odor. He testified further that the longer egg powder is kept in storage, the stronger its odor becomes. He sold a 50 pound batch and also one barrel to Silverstein, a wholesale cake baker who has been in the business since 1921. Silverstein testified he considered this egg powder a satisfactory product. Mr. Fred W. Listzow, who has been a wholesaler of egg products for 32 years and who was a pioneer in the egg powder business, tasted and tested the samples of the claimant's powder which had been rejected. He testified that there was an odor to all powdered food products; that there was a slight off odor and off flavor to the powder in question; that he sent a sample of it to the largest bakery supply company in the country located at Boston; and that after that concern had tested same, it ordered a supply. Listzow could not fill the order with claimant's powder, but he did fill it with other egg powder which had been rejected by the government at Marshfield, Wisconsin, and he received no complaint as to it.

"Hence, it is well established in this case that claimant's egg powder when seized by the government was not injurious to health and further that it was fit for food for human consumption. But the government argues that it rests its case on the first part of the sentence in Sec. 402 (a) (3). 'if it consists in whole or in part of any filthy, putrid, or decomposed substance,' ignoring the last part of the sentence, 'or if it is otherwise unfit for food.' Government witnesses testified as to certain scientific tests they made on the powder in question, and also as to tests previously made upon 'authentic



packs of dried eggs'. In preparing the authentic packs, care was taken that only good quality eggs were used, and ideal sanitary conditions prevailed. The witnesses testified that under such conditions not in excess of 10 million bacteria by the microscopic count were present per gram of dried egg powder. Then other packs of good eggs were mistreated with rotten or spoiled eggs. The packs of such eggs which were dried promptly showed little if any increase in the microscopic bacterial count over known good quality eggs dried under the same conditions. However, where such mistreated eggs were permitted to stand for 18 hours in a temperature of 85°, the bacteria multiplied rapidly, in some cases exceeding one billion per gram of egg powder. The principal government witness testified that it is his conclusion that anytime the microscopic bacterial count per gram of powdered eggs is in excess of 100 million, it indicates that the eggs are in part decomposed. In answer to the court's question, the witness admitted that if a million good eggs and one bad egg were mixed, he would not regard the product as decomposed, but apparently the line was arbitrarily drawn at a bacterial count of 100 million per gram. Tests of one batch of claimant's egg powder revealed a bacterial count ranging from 1,400,000 to 5,400,000,000 per gram. The bacterial count of samples from other barrels ranged from 1,200,000,000 to in excess of 10 billion.

"Another government witness testified that bacteria are responsible for the presence of formic, acetic, lactic, and butyric acids in egg powder, and that he made tests for these acids on the authentic packs and also on the dried egg powder under seizure and found that such acids were present in greater degree in the condemned powder than in the authentic packs.

"Sec. 342 (a) under which these actions were brought shows what Congress was trying to accomplish. This section has six sub-divisions:

A food shall be deemed to be adulterated—(1) If it bears or contains any poisonous or deleterious substance which may render it *injurious to health*; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it *injurious to health*; or (2) if it bears or contains any added *poisonous* or added deleterious substance which is *unsafe* within the meaning of section 346; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise *unfit for food*; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered *injurious to health*; or (5) if it is, in whole or in part, the product of a *diseased animal* or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any *poisonous* or deleterious substance which may render the contents *injurious to health*. [Italics supplied.]

"Reading the section as a whole, it is apparent Congress had in mind prohibiting the interstate commerce of food products which were dangerous to health and unfit for food.

"Before the amendment of June 25, 1938, the comparable section of the act (21 U. S. C., Sec. 8) read that a food shall be deemed to be adulterated:

Sixth. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, . . .

The amendment inserted the word 'any' before the word 'filthy' and the word 'otherwise' before the word 'unfit,' so that it read:

A food shall be deemed to be adulterated— . . . (3) if it consists in whole or in part of *any* filthy, putrid, or decomposed substance, or if it is *otherwise* unfit for food; . . . [Italics supplied.]

As a matter of first impression, I would conclude that the amended section indicates that Congress intended that the filthy, putrid, or decomposed substance must make the product unfit for food. There would seem to be no reason for the word 'otherwise' except to refer to the first part of the sentence. However, before it was amended the courts uniformly construed the act as prohibiting the interstate shipment of food which consisted in whole or in part of any filthy, putrid, or decomposed substance, irrespective of whether it was injurious to health. See: *United States v. Two Hundred Cases of Adulterated Tomato Catsup*, 211 Fed. 780, 783; *United States v. Krumm*, 269 Fed. 848, 850; *United States v. Two Hundred Cases of Canned Salmon*, 289 Fed. 157, 158; *A. O. Andersen and Co. v. United States*, 284 Fed. 542; *Knapp v. Callaway*, 52 F. (2d) 476, 477; *United States v. 133 Cases of Tomato Paste*, 22 F. Supp. 515, 516. It, of course, is assumed that Congress was aware of these interpretations and passed the amendment with these decisions in mind. *Kepner v. United States*, 195 U. S. 100; *United States v. Ryan*, 284 U. S. 167.

"Bowing to this rule, I hold that the act as amended must be construed to prohibit the interstate shipment of food when it consists in whole or in



part of any filthy, putrid, or decomposed substance, irrespective of whether it is fit for food or not injurious to health.

"The remaining question is whether the government has sustained the burden of proof upon it to establish that the egg powder was decomposed. In *A. O. Andersen and Co. v. United States*, 284 Fed. 542, 544, the Ninth Circuit Court of Appeals said:

Decomposition may begin where life ends, but meat or fish is not decomposed at that early stage. Decomposed means more than the beginning of decomposition; it means a state of decomposition, and the statute must be given a reasonable construction to carry out and effect the legislative policy or intent. . .

"In *United States v. Commercial Creamery Co.*, 43 F. Supp. 714, 717, Judge Schwellenbach said:

I do know that for years chemists have been seeking more efficient and rigid methods for the determination of the presence of decomposition in eggs. One need only study the reports of the Association of Official Agricultural Chemists to become aware of this effort. . . .

"The tests upon which the government here relied were developed in secret. The experimenters did not disclose the methods used in their tests or their conclusions either to the Association of Official Agricultural Chemists or to any other scientific society. Furthermore, they did not announce these tests or their conclusions to the industry. They were 'sprung' on the claimant herein and apparently in one other similar action tried about the same time. In view of the long efforts to try to attain some reliable standards, it would have been only fair to all concerned for such tests and conclusions to have been disclosed to the industry so that an opportunity would have been afforded to verify them, or to determine whether the arbitrary limits stated by the department were proper conclusions to be drawn from the tests. This is especially true as all decomposition and fermentation in foods is not undesirable. Roquefort and other cheeses, and sauerkraut are examples.

"The high bacteria count for the authentic pack indicated in the government tests resulted only when good eggs were contaminated and held at an 85° temperature for 18 hours or more. The evidence discloses that the claimant herein followed no such practice. It used fresh, current receipt eggs which had been inspected by candling. They were kept at an ideal temperature up to the time when they were dried. This positive testimony offsets the expert opinion of the government witness which was based upon an experiment which was never submitted to the Association of Official Agricultural Chemists or to other learned scientific societies.

"It is my conclusion that the government has not sustained the burden of proof to entitle it to an injunction to prevent the shipment in interstate commerce of the egg powder in Actions Nos. 852 and 853, and further that it has not sustained the burden upon it in the libel proceedings in Action No. 1111, and that the claimant is, therefore, entitled to judgment in all three actions."

In accordance with the foregoing opinion, a decree was entered on January 17, 1944, ordering the dismissal of the libel actions and the release of the product to the claimant.

**8888. Adulteration of dried whole eggs. U. S. v. 66 Barrels of Dried Whole Eggs (and 2 other seizure actions against dried whole eggs). Default decrees of condemnation. Products used for animal feed.** (F. D. C. Nos. 14710, 14885, 14929. Sample Nos. 92364-F, 92369-F, 93650-F.)

**LIBELS FILED:** Between December 6, 1944, and January 3, 1945, Southern and Western Districts of New York.

**ALLEGED SHIPMENT:** On or about March 22 and 25, 1944, by Horace A. Gioia, from Jersey City, N. J.

**PRODUCT:** 69 200-pound barrels, and 4 barrels containing a total of approximately 750 pounds, of dried whole eggs at Rochester, N. Y., and New York, N. Y., respectively.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs and, in addition, a portion of the Rochester lot consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** Between January 15 and March 16, 1945, no claimants having appeared, judgments of condemnation were entered and the New York City lot was ordered delivered to a Federal institution, for use as animal feed, and the Rochester lot was ordered destroyed. Destruction of the latter lot was effected by using it for animal feed.



**8889. Adulteration of frozen eggs. U. S. v. 167 Cans of Frozen Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15753. Sample No. 2006-H.)**

**LIBEL FILED:** On or about March 26, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about March 9, 1945, by Swift and Co., Chambersburg, Pa.

**PRODUCT:** 167 cans, each containing 30 pounds, of frozen eggs at Baltimore, Md.

**LABEL, IN PART:** "Gold Crest Frozen Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 11, 1945. Swift & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

**8890. Adulteration of frozen whole eggs. U. S. v. 1,316 Cartons and 800 Cartons of Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 15760, 15761. Sample Nos. 4512-H, 4514-H.)**

**LIBELS FILED:** March 28, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 10 and March 2, 1945, by the Marion Creamery and Poultry Co., from East Portland, Ore.

**PRODUCT:** 2,116 30-pound cartons of frozen whole eggs at Philadelphia, Pa.

**LABEL, IN PART:** "Whole Eggs \* \* \* Packed By Columbia Produce Co. Portland, Oregon."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 12, 1945. William H. Oldach, Philadelphia, Pa., claimant, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond for the segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

**8891. Adulteration of frozen whole eggs. U. S. v. 1,185 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released for segregation and denaturing of the unfit portion. (F. D. C. No. 15135. Sample Nos. 88575-F, 11411-H.)**

**LIBEL FILED:** February 1, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 18, 1944, by the Office of Distribution, War Food Administration, from Hartford, Conn.

**PRODUCT:** 1,185 30-pound cans of frozen whole eggs at Springfield, Mass.

**LABEL, IN PART:** "Whole Eggs \* \* \* Packed By Roth Trading Co. Burlington, Vt."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 17, 1945. The Commodity Credit Corporation, War Food Administration, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released to the claimant, conditioned that the unfit portion be segregated and denatured and disposed of for purposes other than human consumption, under the supervision of the Food and Drug Administration.

**8892. Adulteration of frozen whole eggs. U. S. v. 94 Cans of Frozen Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 15652. Sample No. 26924-H.)**

**LIBEL FILED:** On or about March 26, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about October 28, 1944, by the Beatrice Creamery Co., from Topeka, Kans.

**PRODUCT:** 94 30-pound cans of frozen whole eggs at Denver, Colo.

**LABEL, IN PART:** "Frozen Whole Eggs \* \* \* Hurst and Sons Kansas City, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** On or about June 2, 1945, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**8893. Adulteration of frozen whole eggs. U. S. v. 22 Cans of Frozen Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 15752. Sample No. 5816-H.)**

**LIBEL FILED:** March 28, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 19 and 26, 1945, by the Ballas Egg Products Co., Inc., from Zanesville, Ohio.

**PRODUCT:** 22 30-pound cans of frozen whole eggs at New York, N. Y.

**LABEL, IN PART:** "M Frozen Blend of Egg Yolks & Egg Whites \* \* \* Distributed By Swift & Company \* \* \* Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### FEEDS AND GRAINS

**8894. Action to enjoin and restrain the interstate shipment of misbranded Egg-O-Milk Co.'s Blend and Milkmaid Co.'s Blend. U. S. v. G. Fred Obrecht, individually, and trading under the firm names Hood Mills Co., Egg-O-Milk Co., P. Fred'k Obrecht and Son, Farmers Service Bureau, Gerard Milk Products Co., Milkmaid Co., and Obrecht Sales Co. Tried to the court. Permanent injunction granted. (Inj. No. 92.)**

**COMPLAINT FILED:** April 18, 1945, District of Maryland, against the above-described defendant, with office and principal place of business at Baltimore, Md., and plant at Hoods Mills, Md.

**PURPOSE OF COMPLAINT:** To restrain the defendant from shipping animal feed misbranded in the manner described below.

**NATURE OF CHARGE:** That since December 1, 1931, the defendant had been manufacturing, mixing, blending, packing, and offering for interstate commerce animal feed that was misbranded in the following manner: Section 403 (a), the labeling of the feed was false and misleading; and, Section 403 (b), the feed was offered for sale under the names of other food products.

**PRAYER OF COMPLAINT:** That a preliminary injunction issue, restraining the defendant from commission of the acts complained of; and that, after due proceedings, the preliminary injunction be made permanent.

**DISPOSITION:** On July 25, 1945, judgment was entered which permanently enjoined the defendant from the commission of the acts complained of. In rendering judgment, the court made findings of fact and conclusions of law, and delivered an opinion, as follows:

*COLEMAN, District Judge:*

#### FINDINGS OF FACT

"I. That the defendant, G. Fred Obrecht, has been for many years, and now is, trading and doing business individually, and under the assumed names and styles of Hood Mills Co., Egg-O-Milk Co., P. Fred'k. Obrecht & Son, Farmers Service Bureau, Gerard Milk Products Co., Milkmaid Company, and Obrecht Sales Co., and is now, and has been for many years, engaged in the business of manufacturing, mixing, blending, packaging, selling, marketing, and shipping in interstate commerce animal feeds, foods within the meaning of Section 201 (f) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 321 (f)]; and that the said defendants conduct business at 4101 E. Monument Street, Baltimore, State of Maryland, and at Hoods Mills, Carroll County, State of Maryland, within the jurisdiction of this Court, and have been so located and engaged in said business for a number of years.

"II. That during the period, and on or about and between December 1, 1931 and March 26, 1945, the defendant, G. Fred Obrecht, individually, and trading under the assumed names and styles aforesaid, introduced and delivered for introduction into interstate commerce at various times and in varying amounts, addressed to consignees in different states of the United States, an animal feed known as 'Egg-O-Milk The Perfect Food—Protein 18%,' which name was contained on the labels on the containers of the said animal feed, and which is hereinafter referred to as 'Egg-O-Milk.'

"III. That the said animal feed 'Egg-O-Milk' is a blended poultry food containing a very small amount of milk and egg, and that there is not a sufficient content in the said feed of either milk or egg to justify reference thereto by use of the name 'Egg-O-Milk.'



"IV. That the defendants do not manufacture or distribute any products or animal feeds with a substantial egg or milk content, and that the trade-name 'Egg-O-Milk' is used by the defendants for no other purpose than in connection with the marketing of this particular product.

"V. That the labeling of the said product 'Egg-O-Milk' is false and misleading in that it represents, suggests, and implies that the said food contains a substantial amount of egg and milk when, in fact, the said food contains only very small and insignificant amounts of egg or milk.

"VI. That the defendants have offered the said product for sale under the names of other foods, to wit, egg and milk, although the said product contains only very small and insignificant amounts of either egg or milk.

"VII. That the name 'Egg-O-Milk Co.,' under which defendant G. Fred Obrecht offers the said product 'Egg-O-Milk' for sale, and which he uses on his letterheads and in his correspondence with customers, is false and misleading, since the name of the said company represents, implies, and suggests the presence of milk and egg in substantial quantities in the said product 'Egg-O-Milk,' and is false and misleading in the same manner as the name of the product 'Egg-O-Milk' on the labels thereof.

"VIII. That the defendant, G. Fred Obrecht, trading as Milkmaid Company and Gerard Milk Products Co., on or about the prior to March 17, 1945 introduced into interstate commerce an animal feed known as 'Milkmaid Co.'s Blend,' a food within the meaning of Section 201 (f) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 321 (f)].

"IX. That the label on the container of the said product states that milk and buttermilk are contained therein, but, as a matter of fact, the said product 'Milkmaid Co.'s Blend,' contains no milk or buttermilk. That the name 'Milkmaid Co.'s Blend' on the label of the said product expressly and by implication represents, suggests, and implies, that milk is a substantial ingredient of the said product; that the contents of the said product do not justify any reference to milk as an ingredient thereof by use of the name 'Milkmaid Co.'s Blend,' or in any other way.

"X. That the defendants do not manufacture, market, or distribute any products or animal feeds with a substantial milk content, and that the trade name 'Milkmaid Co.'s Blend' is used by the defendants for no other purpose than in connection with the marketing and distribution of this particular product.

"XI. That the labeling of the said product known as 'Milkmaid Co.'s Blend' is false and misleading in that it represents, suggests, and implies that the said food contains a substantial amount of milk, when, in fact, the said food contains no milk.

"XII. That the defendants have falsely offered the said product for sale under the name of another food, to wit, milk, although the said product contains no milk.

"XIII. That the names 'Milkmaid Company' and 'Gerard Milk Products Co.,' under which defendant, G. Fred Obrecht, offers for sale and markets the said product 'Milkmaid Co.'s Blend,' and which he uses on his letterheads and in his correspondence with customers, are false and misleading, since the names of the said companies represent, suggest, and imply the presence of milk in substantial quantities in the said product 'Milkmaid Co.'s Blend,' and are false and misleading in the same manner as the name of the product 'Milkmaid Co.'s Blend' on the labels thereof.

"XIV. That the names of the aforesaid products, to wit, 'Egg-O-Milk' and 'Milkmaid Co.'s Blend,' and the names of the companies, to wit, 'Egg-O-Milk Co.,' 'Milkmaid Company,' and 'Gerard Milk Products Co.,' are descriptive of the said products, and are used for no other purpose than in connection with these particular products and the marketing thereof. That there is not a sufficient content of milk and egg, or either of them, in the said products respectively, to justify reference to either milk or egg in the labeling thereof, or in the names of the companies under which they are marketed.

"XV. That the protection of the public requires the elimination from the labeling of the said products, and from their trade-names, 'Egg-O-Milk' and 'Milkmaid Co.'s Blend,' and from the names of the said companies 'Egg-O-Milk Company,' 'Milkmaid Company,' and 'Gerard Milk Products Co.,' of any and all reference, express or implied, to milk and egg, or either of them, or to the use by the defendants of the names 'egg' or 'milk' in connection with the said products or their marketing, or as part of either a firm name, trade name, or



label, except as items on the list of ingredients, stating in limiting and definitive language the extent to which they are actually contained therein.

"On the basis of the foregoing, the court makes the following

#### CONCLUSIONS OF LAW

"A. That the defendants have introduced and delivered for introduction, into interstate commerce, in violation of Section 301 (a) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 331 (a)] misbranded animal feed products, known as 'Egg-O-Milk' and 'Milkmaid Co.'s Blend,' foods within the meaning of Section 201 (f) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 321 (f)].

"B. That the said foods were and are misbranded within the meaning of Sections 403 (a) and (b) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 343 (a) and (b)] in that the labeling on the said foods was and is false and misleading, and in that they were and are offered for sale and marketed under the names of other foods.

"C. That the plaintiff is entitled to a decree of injunction, permanently enjoining and restraining the defendants under the provisions of Section 302 (a) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 332 (a)] from violating the provisions of Section 301 (a) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 331 (a)] and from introducing or delivering for introduction into interstate commerce foods any animal feeds misbranded within the meaning of Sections 403 (a) and (b) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 343 (a) and (b)]; and from using the words 'milk' or 'egg,' singly or in combination, in the trade-names of the said foods, upon the labels thereof, or in the names of the companies or firms manufacturing, selling, marketing, and/or distributing the said foods, except that the defendants may use the said words in the list of ingredients of the product heretofore designated as 'Egg-O-Milk,' provided that the said words 'egg' and 'milk' are limited, modified, and described by language indicating that the content of 'egg' and 'milk' as ingredients in the said product is small and of insignificant amount."

#### OPINION

"This is an injunction proceeding brought by the Government under Section 302 (a) of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. A. Secs. 301-392).

"By the weight of the credible evidence, the Government is clearly entitled to a permanent injunction with respect to the use by the defendant of the words 'Egg-O-Milk' either as part of a company or trade name; as part of the label on his product, which is a blended poultry food, whether its use precedes or follows the list of ingredients and the statement as to the protein, fat and fibre content of the product; as descriptive of the product, or for any other purpose, because it has been clearly demonstrated that there can be no other purpose in using the words 'Egg-O-Milk' except in connection with this one particular product, and there is not a sufficient content of either milk or eggs to justify emphasizing such reference to either. In other words, the Government is entitled to such injunctive relief because there has been a misbranding within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. A. Sec. 343 (a) and (b)) by (1) use of the words 'Egg-O-Milk' as part of the label of defendant's product, and (2) use of these words in connection with the sale of defendant's product.

"If it had been shown that other products, having a substantial egg or milk content, or both, were manufactured or distributed by the Egg-O-Milk Company or its affiliates, the situation might be different, and the Government might not be entitled to as broad a decree, but there is not a scintilla of evidence in the case that this trade name, 'Egg-O-Milk,' is used for any other purpose than in connection with the marketing of this particular product. Indeed, the letter and the statement in the letter in evidence from the defendant in and of itself fully supports the conclusion that the term is directly misleading as applied to his product.

"The further question arises: should the injunction extend not merely to the prohibition of the use of the trade name, 'Egg-O-Milk,' on the labels and otherwise in connection with the sale of this product, but include as well the prohibition of any reference to eggs or milk in the list of ingredients? I think the



answer is 'no.' Neither the Act nor the Regulations promulgated thereunder require that the ingredients of a product shall all be set out in their actual proportions. It is sufficient if they are enumerated in reasonably accurate, general terms. They need not be put down alphabetically or in the order of their percentages. The amount of proteins, fat and fibre, however, is required to be specifically stated. That has been done here, and I understand there is no dispute in that regard. In other words, the most that the Government is entitled to, in addition to the entire elimination of the use of the words 'Egg-O-Milk,' is a modification of the label, permitting the inclusion of the word 'egg' or 'milk,' if milk, skimmed milk, powdered egg, powdered egg yolk, etc. are in fact among the ingredients, but only in such manner as to make it clear that those ingredients are contained in small amounts. So I shall require that the list of ingredients as part of the label be redrawn and the words 'buttermilk, skimmed milk, powdered egg yolk' be qualified by the words, after each of them: 'in small amounts'; or by some phrase at the end, such as: 'and small amounts of milk and egg, or milk and egg products.' This seems to be fully justified by the weight of the credible evidence which is to the effect that, at most, none of the samples have shown more than a very small percentage—one per cent or one-half of one per cent,—of milk or egg content.

"The defendants have introduced no analyses by chemists to offset the analyses introduced by the Government. There is nothing to indicate that the Government's testimony is not entirely trustworthy or accurate. Therefore, we believe that the Government has made out a clear case for an injunction as respects the label, as well as respects the use of the trade name generally. Section 403 (a) and (b) of the Act (21 U. S. C. A. Sec. 343 (a) and (b)) declares that 'A food shall be deemed to be misbranded—(a) If its labelling is false or misleading in any particular. (b) If it is offered for sale under the name of another food.' The same applies to the use of the words 'Milkmaid' by the Milkmaid Company, because, although malt appears to be one of the important ingredients of defendant's blended food product known as 'Milkmaid Co.'s Blend,' the prefix 'milk' causes the same sort of misbranding as does the use of the words 'Egg-O-Milk.' We believe nothing more need be said to show the labelling in both instances is clearly false and misleading. Likewise, if the defendant offers his products for sale, and refers to them by his trade names, on his letter-heads or in his correspondence with customers or prospective customers, as 'Egg-O-Milk' or 'Milkmaid,' he is, in effect, misleading the public in the same manner as though he were offering his products 'for sale under the name of another food' within the prohibition of the statute, as just quoted.

"The position of the Government is sound. The very fact that the defendant has seen fit to operate, not merely through one company, but through seven different companies for the purpose of marketing his products and ringing the changes on the use of the words 'milk' or 'egg,' shows an attempt to play up something which, on the evidence in this case, is non-existent. The granting of an injunction in a case of this character under Section 302 (a) of the Act (21 U. S. C. A. Sec. 332 (a)) is not dependent upon whether somebody has been actually harmed or deceived; it depends upon whether (1) the labelling and (2) offering for sale are false and misleading. Prevention is the basis of the relief afforded,—protection of the public against being deceived or misled.

"I may add, finally, that I trust there will not follow in this case what follows in a number of these cases and is quite common in ordinary trade-mark cases, namely, that in spite of what the Court says, the parties come back to the Court, asking to be told what they can do. One side says he didn't think the Court said this or that could be done, and the other side says he thinks the Court did say that it could be done. It is not the province of the Court to tell this defendant precisely what name he shall use, nor is it necessary or appropriate for the Court to give him a list of names. As to a new name, it must be clear from what has just been said that, impliedly, the injunction shall prohibit the use of any new name which embodies the words 'Egg-O-Milk,' 'egg,' 'eggs,' or 'milk,' as long as the defendant does not deal in any other product that has any egg or milk content. If he should, at some future time, manufacture or deal in an entirely new product, that might be a different matter. But as to what name to use now, that is something that the defendant ought to be able to determine in harmony with this decision.

"To summarize and conclude: the injunction runs to the prohibition, under existing circumstances, of the use in any way whatsoever in connection with the marketing of defendant's products, of the words 'Egg-O-Milk,' 'Milkmaid,'



'eggs,' 'egg' or 'milk' as part of either a firm name, trade name, or label; except that the word 'eggs,' 'egg' or 'milk' may be used on labels and otherwise as part of the bona fide description of the egg or milk content of defendant's products, provided such use is qualified by words or phrases indicating the extent, at least in general non-misleading terms, of such content. Any other use of these words in connection with defendant's products would be, in essence, a deception and would be part and parcel of the misbranding. In other words, if defendant shall no longer be permitted to fill an order for 'Egg-O-Milk' or 'Milk-malt' without re-labelling the products as herein explained, it certainly follows that, unless and until he in fact produces or deals in substantially different milk or egg products, he ought not to be allowed to write, or to otherwise hold himself out as though he dealt in 'Egg-O-Milk' or 'Milk-malt,' which clearly implies a product having a substantial milk or egg content, or both.

"I will sign an order in accordance with the opinion just rendered."

**8895. Misbranding of Egg-O-Milk Co.'s Blend. U. S. v. 74 Bags of Egg-O-Milk Co.'s Blend. Default decree of destruction.** (F. D. C. No. 15763. Sample No. 3613-H.)

**LIBEL FILED:** April 5, 1945, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about December 16, 1943, by the Egg-O-Milk Co., from Baltimore, Md.

**PRODUCT:** 74 100-pound bags of Egg-O-Milk Co.'s Blend at Richmond, Va. Examination showed that the article consisted essentially of soybean flour, wheat flour, small amounts of wheat bran, spray-dried grains resembling those of dried egg, and a trace of yeast.

**LABEL, IN PART:** "Egg-O-Milk Co.'s Blend Buttermilk, Skim Milk, Malt Flour, (Wheat Malt, Barley Malt, Soy Malt,) Powdered Egg-Yolk, Yeast."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the name "Egg-O-Milk Co.'s Blend" was misleading since the article was formerly sold under the name "Egg-O-Milk," and the name implied that the article consisted essentially of egg and milk. Further misbranding, Section 403 (a), the label statement, "Buttermilk, Skim Milk, Malt Flour, (Wheat Malt, Barley Malt, Soy Malt,) Powdered Egg-Yolk, Yeast," was false and misleading since the article contained little, if any, buttermilk or skim milk.

**DISPOSITION:** May 3, 1945. No claimant having appeared, judgment was entered ordering the product destroyed.

**8896. Misbranding of Dr. MacDonald's Vitamized Egg Mash Maker, Dr. MacDonald's Vitamized Chick and Growing Mash Maker, and Dr. MacDonald's Vitamized Metabolators For Dairy Cattle, Sheep, Beef Cattle, Calves, and Swine. U. S. v. John R. MacDonald (Vitamized Feed Co.). Plea of nolo contendere. Fine, \$400 and costs.** (F. D. C. No. 12557. Sample Nos. 8241-F, 8242-F, 8565-F, 8566-F, 8568-F to 8570-F, incl.)

**INFORMATION FILED:** December 14, 1944, Northern District of Iowa, against John R. MacDonald, trading as the Vitamized Feed Co., Fort Dodge, Iowa.

**ALLEGED SHIPMENT:** Between the approximate dates of March 20 and September 22, 1943, from the State of Iowa into the State of Minnesota.

**PRODUCT:** The Egg Mash Maker and Chick and Growing Mash Maker were sold as supplements for mixing poultry mashes. They consisted essentially of limestone, salt, charcoal, iron compounds, sulfate, iodide, plant material, and small amounts of other mineral substances. The remaining products were stock feeds consisting of cereal matter to which had been added, in various proportions and combinations, ground limestone, salt, charcoal, iron compounds, sulfates, sulfur, copper salts, iodide, oil, ginger, licorice and anise, small amounts of phosphorus, sodium thiosulfate, yeast, fenugreek, charcoal, iodine, iodides, and chloride.

**NATURE OF CHARGE:** *Egg Mash Maker*, misbranding. Section 403 (a), the label statement, "Iodine (I) Not less Than . . . .03906%," was false and misleading since the article contained a smaller amount of iodine. Further misbranding, Section 403 (a), the name of the article, the label statement, "Vitamized Egg Mash Maker," and certain statements in the accompanying circular entitled "Get More Egg By The Vitamized Way" were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it would produce extra quality eggs; that it contained all of the essential minerals required by poultry; and that it would increase egg production, produce better hatchability of eggs, improve the health of the flock, increase the vitality of poultry, build up body resistance



to disease, help to protect the hens against mortality, increase the digestibility of feed, and increase the flow of digestive juices and body secretions of poultry. The article did not contain substances rich in vitamins; it did not contain all of the essential minerals required by poultry; and it would not effect the results suggested or implied by the statements.

*Chick and Growing Mash Maker*, misbranding, Section 403 (a), the name of the article, the label statements, "Vitamized Chick Mash Maker, Chick Starter Chick Grower Makes 'Em Cackle Early" and "Vitamized Chick and Growing Mash Maker," and certain statements in the accompanying leaflet and circular entitled "Stop Chick Loss" and "Vitamized Feed News" were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it would be efficacious to stop chick losses and to prevent all disease conditions of chicks and chickens; that it would help to keep chicks in good health; that it would help to produce healthy mature birds in the shortest possible time; that it would promote nutritional balance in poultry, reduce mortality due to unbalanced feeds, increase egg production, and build greater resistance to disease; that it would help chicks to grow at a faster rate in a shorter period of time and at less cost; and that it would increase the flow of digestive juices and body secretions, build strong, vigorous, thrifty chicks, promote strong bone structure and rapid growth, improve flock health and vigor, ward off nutritional deficiency diseases, and build up resistance against infectious diseases. The article did not contain substances rich in vitamins, and it would not be efficacious to accomplish the results claimed.

*Metabolator for Dairy Cattle*, misbranding, Section 403 (a), the label statements, "Phosphorus (P) Not Less Than . . . 5%" and "Iodine (I) Not Less Than . . . .0625%," were false and misleading since the article contained less phosphorus and iodine than was represented. Further misbranding, Section 403 (a), the name of the article, and the label statements, "Vitamized Metabolator \* \* \* Makes Better Dairy Cattle and Stronger Calves" and "Vitamized Metabolator," and certain statements in an accompanying circular entitled "Which Pail of Milk Do You Want?" were false and misleading since they represented and suggested that the article contained substances which were rich in vitamins and which possessed properties of special value in promoting body metabolism; that it would increase milk production; that it was a profit maker; that it would reduce feeding costs and eliminate waste; that it would promote better digestion and assimilation of feed, help to build the general health of cattle, maintain peak milk flow, would produce stronger and bigger calves, prevent abortions, and help to prevent the common troubles of dairy cows; that it was a conditioner; that it would stimulate the digestive juices and step up the digestive processes of cattle; and that it would prevent sickness in livestock. The article did not contain substances rich in vitamins; it did not possess properties of special value in promoting body metabolism; it was not a conditioner; and the use of the article would not effect the results suggested or implied by the labeling.

*Metabolator for Sheep*, misbranding, Section 403 (a), the label statement, "Iodine (I) Not Less Than .0625%," was false and misleading since the article contained less than .0625 percent of iodine. Further misbranding, Section 403 (a), the name of the article, the label statements, "Vitamized Metabolator Sheep Balancer" and "Vitamized Metabolator For Sheep (Sheep Balancer)," and certain statements in an accompanying circular entitled "Vitamized Feed News," were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it possessed properties of special value in promoting body metabolism; and that the use of the article would make sheep, wool, and mutton production profitable, make lambs husky, increase milk flow at lambing time, improve the reproductive processes in sheep, cause better utilization of other food, and stimulate the appetite; and that it would produce a fine finish and high-quality carcass. The article did not contain substances rich in vitamins; it did not possess properties of special value in promoting body metabolism; and the use of the article would not effect the results suggested or implied by the labeling.

*Metabolator for Beef Cattle*, misbranding, Section 403 (a), the label statement, "Iodine (I) Not Less Than .0625%," was false and misleading since the article contained less than .0625 percent of iodine. Further misbranding, Section 403 (a), the name of the article, the label statement, "Vitamized Metabolator Cattle Balancer," and certain statements in an accompanying



circular entitled "Vitamized Feed News," were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it possessed properties which were of special value in promoting body metabolism; that it would be efficacious in promoting better digestion and assimilation of other food; that it would help to keep the animal on full feed; that it would help to stimulate the flow of saliva and other important digestive juices; and that it would produce rapid growth, health, and reproduction, promote nutritional balance in cattle, and promote smooth, even flesh and a glossy coat of hair. The article did not contain substances rich in vitamins; it did not possess properties of special value in promoting body metabolism; and the use of the article would not effect the results suggested or implied by the labeling.

*Metabolator for Calves*, misbranding, Section 403 (a), the label statements, "Phosphorus (P) Not Less Than 4.5% Iodine (I) Not Less Than .0625%," were false and misleading since the article contained less phosphorus and iodine than was represented. Further misbranding, Section 403 (a), the name of the article, the label statements, "Vitamized Metabolator \* \* \* (Calf Balancer)," and certain statements in an accompanying circular entitled "Vitamized Feed News," were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it possessed properties which were of special value in promoting body metabolism; that it would promote nutritional balance; that it would be efficacious in the prevention and cure of scours in calves; and that it would prevent scours due to vitamin A and B deficiencies. The article did not contain substances rich in vitamins; it did not possess properties of special value in promoting body metabolism; and the use of the article would not effect the results suggested or implied by the labeling.

*Metabolator for Swine*, misbranding, Section 403 (a), the label statement, "Iodine (I) Not Less Than .0625%," was false and misleading since the article contained less than .0625 percent of iodine. Further misbranding, Section 403 (a), the name of the article, the label statement, "Vitamized Metabolator For Swine," and certain statements in an accompanying circular entitled "Vitamized Feed News," were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it possessed properties which were of special value in promoting body metabolism; that it would prevent death losses in hogs, insure against loss in hogs due to any cause, and prevent pigs from developing black and white scours; that it would be efficacious in the prevention and treatment of necro; that it would increase the benefits of home-grown grains, help to improve the health of the stock through better nutrition, increase reproductive ability, insure larger litters of husky pigs, improve the digestibility of feeds, increase the flow of saliva and digestive juices, and cause a better utilization of other food; that it would be efficacious in the prevention of pneumonia, worms, enteritis, and contagious diseases; and that it would increase the milk production of sows. The article did not contain substances rich in vitamins; it did not possess properties of special value in promoting body metabolism; and the use of the article would not effect the results suggested or implied by the labeling.

It was also alleged that another article, Necro Tonic For Swine, was misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1645.

DISPOSITION: June 12, 1945. A plea of nolo contendere having been entered by the defendant, the court imposed a fine of \$400, plus costs.

**8897. Misbranding of alfalfa meal. U. S. v. Elmo O'Rourke (Raffety & O'Rourke). Plea of nolo contendere. Fine, \$50. (F. D. C. No. 8794. Sample Nos. 26481-F, 26482-F.)**

INFORMATION FILED: On or about April 16, 1943, Eastern District of Missouri, against Elmo O'Rourke, trading as Raffety and O'Rourke, Wyatt, Mo.

ALLEGED SHIPMENT: On or about July 8, 1942, from the State of Missouri into the State of Maryland.

LABEL, IN PART: "R and O's 20% [or "17%"] Dehydrated Alfalfa Meal."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement on a portion of the product, "Crude Protein, not less than 20.00%," was false and misleading since the portion contained less than 20 percent of crude protein; the label statements on the remainder of the product, "Crude Protein, not less



than 17%" and "Crude Fibre, not more than 27%," were false and misleading since the remainder contained less than 17 percent of crude protein and more than 27 percent of crude fiber.

**DISPOSITION:** October 11, 1943. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$25 on each of the 2 counts.

**8898. Misbranding of Rex Wheat Germ Oil. U. S. v. 3 Deals and 4 Bottles of Rex Wheat Germ Oil. Default decree of condemnation and destruction.** (F. D. C. No. 14648. Sample No. 87389-F.)

**LIBEL FILED:** December 15, 1944, in the Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about July 26 and September 22, 1944, from Fort Worth, Tex., by the Globe Laboratories.

**PRODUCT:** 3 deals and 4 1-gallon bottles of Rex Wheat Germ Oil at Cedar Rapids, Iowa.

Each of the deals consisted of a carton containing 2 1-quart bottles, 4 1-pint bottles, and 3 4-ounce bottles, together with a manila envelope bearing the notation "To the Manager." The envelope contained various pieces of printed matter discussing the alleged virtues of the article. Examination showed that the product contained a dark brown, oily liquid identical in appearance to wheat germ oil.

**LABEL, IN PART:** "Rex Wheat Gerin Oil \* \* \* VioBin Corporation, Monticello, Illinois."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements on the bottle labels of the article, on the manila envelope, and in the printed matter enclosed in the envelope were false and misleading since they represented and suggested that the article would be effective in preventing or correcting breeding difficulties in cattle, pigs, sheep, poultry, dogs, and other animals; that it would be effective in producing a healthy coat and skin in dogs and in curing summer eczema in dogs; that the use of the article would increase the livability of young dogs; that it would keep the dog's coat glossy, soft, and free of dandruff and scale; that it would promote growth of hair and contribute to a dog's general health; that it would be effective in the treatment of itchy, sore, or scaly skin; that it would increase the fertility of hens and the hatchability of eggs; and that it was effective in treating abortion and simple sterility in cows, in bringing calves through to full term in cows with Bang's disease, in treating barrenness in sows, in causing mares to breed, and in producing thriftier livestock. The article would not be effective for the purposes claimed.

It was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1545.

**DISPOSITION:** February 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product, together with the envelope and printed matter, was ordered destroyed.

### FISH AND SHELLFISH

**8899. Adulteration of frozen fish fillets. U. S. v. 383 Boxes of Frozen Yellow Tails. Default decree of condemnation and destruction.** (F. D. C. No. 15705. Sample No. 6416-H.)

**LIBEL FILED:** March 16, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 13, 1944, by the National Frosted Foods Sales Corporation, from New Bedford, Mass.

**PRODUCT:** 383 boxes of frozen yellowtails at Newark, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** June 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8900. Adulteration of frozen cod fillets. U. S. v. 425 Boxes of Frozen, Skinless Cod. Default decree of condemnation and destruction.** (F. D. C. No. 15626. Sample Nos. 17917-H, 17919-H, 17920-H.)

**LIBEL FILED:** March 19, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On February 24, 1945, by the Seattle Fish Co., from Denver, Colo.

**PRODUCT:** 425 15-pound boxes of frozen cod fillets at Chicago, Ill.



**LABEL, IN PART:** "Seabright Brand Frozen Cod Skinless \* \* \* Packed By Leonard Brothers Ltd. North Sydney N. S. Canada."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8901. Adulteration of frozen cod fillets. U. S. v. 227 Boxes of Cod Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 15595. Sample No. 9421-H.)

**LIBEL FILED:** March 8, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about April 29, 1944, by the Gorton-Pew Co., Ltd., from Gloucester, Mass.

**PRODUCT:** 227 10-pound boxes of cod fillets at Rochester, N. Y.

**LABEL, IN PART:** "Quickly Frozen \* \* \* Gold Seal Brand Cod Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8902. Adulteration of frozen cod fillets. U. S. v. 25 Boxes of Cod Fillets. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 15659. Sample No. 22825-H.)

**LIBEL FILED:** March 21, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 7, 1944, by the Commonwealth Ice and Cold Storage Co., from Boston, Mass.

**PRODUCT:** 25 15-pound boxes of cod fillets at St. Louis, Mo.

**LABEL, IN PART:** "North Atlantic Brand Cod Fillets," or "Frozen Cod Fillets Star Fish Co."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** April 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold after the adoption of safeguards, as directed by the Food and Drug Administration, to prevent its use for human consumption.

**8903. Adulteration of rosefish fillets. U. S. v. 1,100 Boxes of Rosefish Fillets. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 7964. Sample No. 1805-F.)

**LIBEL FILED:** July 27, 1942, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 6, 1942, by F. J. O'Hara and Sons, Inc., from Portland, Maine.

**PRODUCT:** 1,100 10-pound boxes of rosefish fillets at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 24, 1942. F. J. O'Hara and Sons, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and salvage of the fit portion, under the supervision of the Food and Drug Administration.

**8904. Adulteration of rosefish fillets. U. S. v. 157 Boxes of Rosefish Fillets. Consent decree ordering unfit portion destroyed and fit portion released.** (F. D. C. No. 15603. Sample No. 26439-H.)

**LIBEL FILED:** On or about March 17, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 8, 1945, by the Distribution Terminal Warehouse, from Cleveland, Ohio.

**PRODUCT:** 157 10-pound boxes of rosefish fillets at Denver, Colo.

**LABEL, IN PART:** "Rosefish Fillets \* \* \* Packed by F. J. O'Hara & Sons, Inc., Portland, Maine."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.



**DISPOSITION:** On or about May 18, 1945, the Seattle Fish Co., Denver, Colo., claimant, having consented to the entry of a decree, and examination having shown that a portion of the product identified by certain codes was not decomposed, judgment was entered ordering the unfit codes destroyed and the fit codes delivered to the claimant.

**8905. Adulteration of frozen rosefish fillets. U. S. v. 900 Cartons of Frozen Rosefish Fillets. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as fertilizer. (F. D. C. No. 15768. Sample No. 331-H.)**

**LIBEL FILED:** On or about April 13, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 4, 1944, by the Atlantic Coast Fisheries Co., from Gloucester, Mass.

**PRODUCT:** 900 10-pound cartons of frozen rosefish fillets at Jacksonville, Fla.

**LABEL, IN PART:** "Atco Frozen Rosefish Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On May 28, 1945, an amended decree was entered ordering the product delivered to a Federal institution, for use as fertilizer.

**8906. Adulteration of frozen rosefish fillets. U. S. v. 71 Boxes of Frozen Rosefish Fillets. Default decree of condemnation and destruction. (F. D. C. No. 15693. Sample No. 17845-H.)**

**LIBEL FILED:** March 26, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about March 5, 1945, by the Little America Finer Frosted Foods Co., from Pittsburgh, Pa.

**PRODUCT:** 71 10-pound boxes of frozen rosefish fillets at Detroit, Mich.

**LABEL, IN PART:** "Quickly Frozen Rosefish \* \* \* Packed by Gorton-Pew Fisheries Co. Ltd. Gloucester Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8907. Adulteration of frozen turbot fillets. U. S. v. 272 Boxes of Fillet Turbot. Default decree of condemnation. Product ordered sold. (F. D. C. No. 15628. Sample No. 26441-H.)**

**LIBEL FILED:** On or about March 15, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 6, 1944, by the Meredith Fish Co., from Sacramento, Calif.

**PRODUCT:** 272 20-pound boxes of frozen turbot fillets at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** May 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for the purpose of extracting the oil for use in the manufacture of soap.

**8908. Adulteration of frozen whiting fillets. U. S. v. 1,580 Cartons of Frozen Whiting Fillets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15602. Sample Nos. 17913-H, 17914-H.)**

**LIBEL FILED:** On or about March 23, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about February 15, 1945, by George H. Thomas, Inc., from Cincinnati, Ohio.

**PRODUCT:** 1,580 20-pound cartons of frozen whiting fillets at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 26, 1945. George H. Thomas, Inc., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.



**8909. Adulteration of frozen whiting. U. S. v. 2,391 Boxes of Frozen Whiting. Product ordered released under bond. (F. D. C. No. 15646. Sample Nos. 20444-H, 20447-H.)**

**LIBEL FILED:** On or about March 23, 1945, District of Kansas.

**ALLEGED SHIPMENT:** On or about October 6, 1944, by the Boothbay Harbor Freezer Co., Wiscasset, Maine.

**PRODUCT:** 2,391 15-pound boxes of frozen whiting at Kansas City, Kans.

**LABEL, IN PART:** "Frozen H and G Whiting Packed By Mid-Central Fish Company of Portland, Maine."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** March 23, 1945. The Mid-Central Fish Co., Kansas City, Mo., having appeared as claimant, the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8910. Adulteration of frozen whiting. U. S. v. 200 Cartons of Frozen Whiting. Default decree of destruction. (F. D. C. No. 15618. Sample Nos. 20424-H, 20426-H.)**

**LIBEL FILED:** On or about March 17, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about January 23, 1945, by the Kroger Grocery & Baking Co., from Cleveland, Ohio.

**PRODUCT:** 200 cartons of frozen whiting at Kansas City, Mo.

**LABEL, IN PART:** "Whiting Frosted Faneuil Fisheries Inc. Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** April 30, 1945. No claimant having appeared, judgment was entered ordering the product destroyed. It was converted into fertilizer.

**8911. Adulteration of frozen whiting. U. S. v. 100 Cartons of Frozen Whiting. Consent decree of condemnation. Product ordered destroyed. (F. D. C. No. 15629. Sample Nos. 20428-H, 20433-H.)**

**LIBEL FILED:** On or about March 22, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about November 30, 1944, by the Standard Fish Co., from Boston, Mass.

**PRODUCT:** 100 20-pound cartons of frozen whiting at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 29, 1945. The claimant having consented, judgment was entered ordering the product destroyed. The product was delivered to a rendering company, for use as hog feed.

**8912. Adulteration of frozen whiting. U. S. v. 27 Cartons of Frozen Whiting. Default decree of forfeiture and destruction. (F. D. C. No. 15627. Sample No. 20427-H.)**

**LIBEL FILED:** On or about March 17, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about July 29, 1944, by the American Fish Co., from Boston, Mass.

**PRODUCT:** 27 15-pound cartons of frozen whiting at Kansas City, Mo.

**LABEL, IN PART:** "8 Bells Brand Frozen H & G Whiting \* \* \* Packed by Henry E. Close, Inc. Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 3, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**8913. Adulteration and misbranding of canned mackerel. U. S. v. 96 Cases of Canned Mackerel. Default decree of condemnation and destruction. (F. D. C. No. 15708. Sample Nos. 13550-H, 29204-H.)**

**LIBEL FILED:** March 15, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about January 30, 1945, by the Consolidated Freight Forwarding Co., for Parrott and Co., from Oakland, Calif.

**PRODUCT:** 96 cases, each containing 48 15-ounce cans, of mackerel at Lexington, Ky.



**LABEL, IN PART:** "Val Vita Brand California Mackerel \* \* \* Packed by California Sea Food Co., Long Beach, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), another variety of fish, commonly called horse mackerel, had been substituted for mackerel, which the product was represented to be.

Misbranding, Section 403 (a), the label statement, "California Mackerel," was false and misleading as applied to a product consisting in part of a variety of fish other than mackerel.

**DISPOSITION:** April 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8914. Adulteration and misbranding of canned mackerel. U. S. v. 49 Cases of Canned Mackerel. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15742. Sample No. 29321-H.)**

**LIBEL FILED:** March 28, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about March 1, 1945, by the A. M. Beebe Co., Inc., from Oakland, Calif.

**PRODUCT:** 49 cases, each containing 48 15-ounce cans, of mackerel at Tampa, Fla.

**LABEL, IN PART:** "Val Vita Brand California Mackerel \* \* \* packed by California Sea Food Co., Long Beach, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), another variety of fish, commonly called horse mackerel, had been substituted for mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement, "California Mackerel," was false and misleading as applied to an article consisting in part of a variety of fish other than mackerel.

**DISPOSITION:** June 15, 1945. The Lakeland Grocery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**8915. Adulteration of canned sardines. U. S. v. 12 Cases of Sardines. Default decree of condemnation and destruction. (F. D. C. No. 15625. Sample No. 27429-H.)**

**LIBEL FILED:** March 14, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about September 25, 1944, by the F. E. Booth Co., from Pittsburg, Calif.

**PRODUCT:** 12 cases, each containing 48 15-ounce cans, of sardines at Portland, Oreg.

**LABEL, IN PART:** "Booths' Crescent Brand Broiled California Sardines in Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8916. Misbranding of tuna fish. U. S. v. Irving Dickman (I. Dickman & Sons). Plea of guilty. Fine, \$25. (F. D. C. No. 6497. Sample Nos. 74614-E to 74616-E, incl.)**

**INFORMATION FILED:** July 21, 1942, Eastern District of New York, against Irving Dickman, trading as I. Dickman & Sons, Brooklyn, N. Y.; charging that the defendant relabeled a quantity of bonita as "Light Meat Tuna" while the product was being held for sale after shipment in interstate commerce.

**ALLEGED SHIPMENT:** On or about August 18, 1941, from Wilmington, Calif., to Brooklyn, N. Y.

**LABEL, IN PART:** (When shipped) "Treasure Bonita"; (as relabeled) "Light Meat Tuna \* \* \* Golden King Brand."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Light Meat Tuna," was false and misleading since the article did not consist of light meat tuna but consisted of bonita; Section 403 (b), it was offered for



sale under the name of another food; and, Section 403 (i) (1), its label failed to bear the common or usual name of the article, i. e., "Bonita."

DISPOSITION: August 10, 1942. A plea of guilty having been entered by the defendant, the court imposed a fine of \$25.

**8917. Alleged adulteration of canned herring roe. U. S. v. 667 Cases of Canned Herring Roe. Tried to the court. Verdict for claimant. Product ordered released.** (F. D. C. No. 7637. Sample No. 1085-E.)

LIBEL FILED: June 11, 1942, District of Maryland.

ALLEGED SHIPMENT: On or about May 7, 1942, by the Reedville Oil and Guano Co., from Reedville, Va.

PRODUCT: 667 cases, each containing 48 8-ounce cans, of herring roe at Baltimore, Md.

LABEL, IN PART: "Premier Herring Roe \* \* \* Francis H. Leggett & Co. Distributors New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

DISPOSITION: November 2, 1942. The Reedville Oil and Guano Co., claimant, having filed an answer denying that the product was adulterated, trial was had before the court. After hearing the testimony and arguments of counsel and considering the evidence, the court delivered the following oral opinion:

CHESNUT, *District Judge*: "Gentlemen, I would have very much preferred to have submitted this case to a jury because they represent a cross-section of the public in determination of the facts. And I think a decision is much more satisfactory if made by a jury in such cases than if made by a single judge. However, when neither side wants a jury trial, the Judge has to solve the problem of determining the facts. Now, it is also my duty under Rule 52 of the Federal Rules of Civil Procedure to make a finding of facts and conclusion of law in these non-jury cases.

"I understand this is not a criminal prosecution but a condemnation proceeding by libel of alleged improper food products and the precise issue is whether the food product which is involved in an interstate shipment was adulterated because it contained filthy matter, which is specified in the bill of particulars to have been in cans of herring roe, some part of the viscera and stomach and intestines and other digested matter in some of the herring, under U. S. Code, Title 21, Section 342.

"I think to get the full force of the meaning of the Act of Congress, you must bear in mind, of course, that it is part of the Food, Drug and Cosmetics Act of 1938, and we should look at the context in which the particular sentence or phrase is included. The heading of Section 342 is 'Adulterated food'. The provision is: 'A food shall be deemed to be adulterated—'. Then there is a heading 'Poisonous, insanitary, etc., ingredients', and the Section continues:

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 346; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

"Now, it is perfectly obvious to the reader of that section that the whole gist of the matter looks to the health of the consuming public and, therefore, while the word 'filthy' is rather a vague term to the extent of its whole meaning, yet in the context in which we find it, it seems to me that it was intended to be used in the sense of its effect on human beings as a food or with relation to food. I do not feel that I could limit it absolutely and sharply by saying that nothing would be filthy in the sense of this statute unless it is definitely unhealthy, but where you have a situation in which it is admitted that the alleged filthy substance is in no way harmful to health but merely such that when contained in a food product, the latter is made unattractive in appearance to the consumer, I doubt very much whether the meaning of 'filthy' as contained in this section is gratified by that latter condition.



"The word 'filthy' is, perhaps, literally broad enough to cover the contentions here made by the Government as to just what it does mean. I read from Webster's International Dictionary: 'Filthy means defiled with filth, whether material or moral; nasty; disgustingly dirty; polluting; foul; impure; obscene. Secondary meaning: disgraceful; disgusting; low', and then I turn to Corpus Juris as a handy definition from a legal viewpoint of 'filthy' and find it is defined as 'Containing or involved in filth; contemptible; defiled by sinful practices; foul; dirty; low; mean; morally foul; nasty; noisome; polluted; scurvy; that which is nasty, dirty, vulgar, indecent, offensive to the moral sense; morally depraving and debasing.'

"Now, our problem in this case is to determine whether the inclusion in some of these cans of herring roe, which were seized for condemnation, or part of the viscera, stomach, intestines and partially digested matter therein corresponding to it are included within the meaning of the word 'filthy' as contained in this context.

"Now, with regard to the facts of the case, I find that the facts are so almost exactly parallel to those stated by Judge Pollard in this case that is reviewed in the Federal Security Agency Bulletin of December, 1940, that I think it unnecessary to review the facts of this case at any great detail. The case referred to is United States vs. 896 and other numbered cases of herring roe, tried in the United States District Court for the Eastern District of Virginia at Richmond in 1940. That was a case which was in all respects materially parallel to this case except that here the interstate shipment which was seized was seized in Baltimore while in transit from Reedville, Virginia, to New York, and what was seized was 667 cases of herring roe which represented more than a majority of the 1,015 cases constituting the total pack of the Reedville Company during 1942. The amount seized at market values apparently was over \$3,000 while the total market pack for the year would only have been about \$5,000, as I recall the figures. That, of course, is a very heavy seizure for a condemnation, and it seems to me that it at least justifies the requirement that the Government should quite clearly prove its case where the consequences are very material like that to the claimant of the goods.

"Now, after all, it is necessarily a jury question here as to what I find from the testimony of the Government as opposed by the testimony of the defendant. With the burden of proof being on the Government in this case to prove its case by a preponderance of the testimony, the question is whether I find from a preponderance of the testimony that the shipment contained filthy matter as particularized in the Bill of Particulars.

"Now, without going into further elaboration and detail, my conclusion in this case is that the Government has not sufficiently established by a preponderance of the evidence that the so-called extraneous matter was filthy in the proper application of that term in the context in which it is included in the law. I will say, however, in this case, as I have said in many of these Food and Drug Act cases, that I think the Act should be considered a very great improvement on the former Act and that the general administration of the Act by the Food and Drug Administration is very materially important and desirable and advantageous for the consumers of food and drug products. We have tried quite a number of these cases in this Court and very generally the result has been, I think, a justified finding in favor of the Government.

"In this particular case, I do not feel that that should be the result. As I say, I think it is not properly found in this case that what we find here, undesirable as it may be from the standpoint of efficiency in merchandising, I do not think it goes to the extent of justifying a condemnation of this shipment that was seized.

"The important thing, of course, is that it is admitted by the Government that the unattractive contents of the cans, which certainly did not average more than about two per cent at most, was in no way injurious to health. The most you can say about it is that it rendered the product unattractive and in that sense only is it said to be filthy.

"It is true that some of the representatives of the Food and Drug Administration say that that means to them that the article was filthy by virtue of the extraneous matter, but I think that is a too expanded definition of the word 'filthy' as it is used in the Food and Drug Act.

"Now, as I say, I think the general administration of the Act is very helpful to the public and very often helpful to the factories and food producers, and the impression was made on my mind that a greater care in the segregation



of the viscera of the fish from the roe could well be striven for by the manufacturer in this case. At the same time, I am not prepared to say that the failure to make a complete separation condemns the article as a filthy thing.

"I would also point out in that connection this important thing in the administration of the Food and Drug Act. The health of the public is the main thing, of course, we are looking at. That is of most importance with reference to foods. Now, 'filthy' is a term of uncertain application. When food is manufactured under conditions where something that is foreign to the food product that is being worked upon is injected into the food product to be sold to the consumer, that, I think, is very definitely wrong. For instance, some months ago we had one or two of these cases where candy manufacturers had their goods seized on the ground that they allowed the candy to be exposed in their factories at night to the presence of rats or mice and the rats or mice would leave their excreta upon the candy. That, obviously, falls within the meaning of 'filthy'. It is the kind of thing that not only is repellent to a person who is told that such a thing existed with regard to the candy manufacturer, but nobody would be likely to say from a bacteriological standpoint that it might not be very definitely injurious to health. So in the case of prosecution some two or three years ago of crab meat packers down on the Eastern Shore. The testimony was that the employees who picked with their hands the meat from the shell of the crab were not clean in their habits and were not required to wash their hands after going to the lavatory, in consequence of which it was alleged by the bacteriologists in a particular case that there were portions of human excreta in the canned product. Now, that case was tried before a jury and the jury found a verdict in favor of the Government, and I could not say that it was an improper verdict, although I think there was a motion for a new trial in the case, so whether the foreign substance which is alleged to be filthy is a really foreign substance and not a part of the whole operation of packing parts of the fish and getting along with the roe some parts of the viscera attached to the roe simply by virtue of lack of adequate care in making the separation, it seems to me there is a vast difference between the two kinds of foreign matter. In the case we have here, the matter that is included and alleged to be filthy is not foreign to the fish. It is at most a part of the fish which is not completely separated from the roe, while in the other case the foreign substance is something which is brought in quite unnecessarily and should undoubtedly be eliminated and could have been eliminated with care.

"Here I am impressed with the testimony of the defendant to the effect that no matter how much care is used, it is nearly always likely that some hidden parts of the viscera of the fish may be included. Take, for instance, a deviled crab. It is very disagreeable to some people in eating a deviled crab to get particles of the shell of the hard crab which have not been eliminated by the cook in preparing it, but no one could say that it is filthy or makes the deviled crab filthy. It makes it unattractive and unpleasant for some people in eating but it can hardly be said to be filthy, so when you have the delicate surgical operation of separating the small roe of a small herring, weighing six to eight ounces, from the surrounding membranes or tissues of the stomach or viscera, it is a delicate operation which often leads to inadequate separation but that is not an injection of extraneous and foreign matter into the product. It is simply a lack of care in separating the roe from the rest of the fish.

"Now, we have nothing here to the effect that the substance is decomposed or is injurious to health, but simply that it is unattractive. I think the witness, Mr. Hines, from Virginia, says it very definitely affects the grading for the purpose of commercial sale or the proper grading of the product for public sale, but it does not affect the health of the public.

"Now, that is the view I have of this particular case. Therefore, the verdict is for the claimant. If you want any judgment entered, well and good. If you want a more detailed finding of fact, I will be very glad to make it if you think it necessary."

In accordance with the court's opinion, the libel was dismissed and the product released to the claimant.

**8918. Adulteration of frozen shrimp. U. S. v. 23 Boxes of Frozen Shrimp. Default decree of condemnation and destruction.** (F. D. C. No. 7329. Sample No. 87555-E.)

**LIBEL FILED:** April 11, 1942, District of Maryland.

**ALLEGED SHIPMENT:** On or about October 8, 1941, by W. M. Wells and Sons, from Southport, N. C.



**PRODUCT:** 23 boxes, each containing 20 pounds, of frozen shrimp at Baltimore, Md.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 7, 1942. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8919. Misbranding of crab meat. U. S. v. 78 Cans of Crab Meat. Default decree of condemnation and destruction.** (F. D. C. No. 15725. Sample No. 5813-H.)

**LIBEL FILED:** March 20, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 27, 1945, by J. H. Fleming & Co., Portsmouth, Va.

**PRODUCT:** 78 1-pound cans of crab meat at New York, N. Y.

**LABEL, IN PART:** (Cans) "DeLuxe Crab Meat"; (portion also labeled) "Packed For Lucien Prince & Co. Fulton Mkt. N. Y. C., N. Y."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product was food in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than "1 Lb. Net," the declared volume.

**DISPOSITION:** April 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## FRUITS AND VEGETABLES \*

### DRIED FRUIT

**8920. Adulteration of apple chops. U. S. v. 1,240 Sacks of Apple Chops. Tried to the court and jury. Verdict for claimant. Judgment ordering dismissal of libel reversed on appeal, and case remanded by appellate court for entry of decree of destruction.** (F. D. C. No. 11744. Sample No. 39651-F.)

**LIBEL FILED:** February 3, 1944, Southern District of California.

**ALLEGED SHIPMENT:** On or about December 9, 1943, by Jack Gomperts and Co., from Cashmere, Wash.

**PRODUCT:** 1,240 50-pound sacks of apple chops at Los Angeles, Calif. Analysis showed that the product contained an average of 0.327 grain of arsenic (as  $\text{As}_2\text{O}_3$ ) per pound and an average of 0.560 grain of lead per pound.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained added poisonous and deleterious substances, arsenic and lead, which may have rendered it injurious to health.

**DISPOSITION:** The Washington Dehydrated Food Co., Yakima, Wash., claimant, having denied that the product was adulterated, the case came on for trial before a jury on May 11, 1944, at the conclusion of which the court gave the following instructions to the jury:

BEAUMONT, *District Judge*: "Gentlemen of the Jury: It becomes my duty as Judge to instruct you in the law that applies to this case, and it is your duty, as jurors, to follow the law as the Court gives it to you. On the other hand, it is your exclusive province to determine the facts in the case, and to consider the evidence for that purpose.

"If the Judge has said or done anything which has suggested to you that he is inclined to favor the claims or position of either party, you will not suffer yourselves to be influenced by any such suggestion.

"I have not expressed, nor intended to express, nor have I intimated nor intended to intimate any opinion as to what witnesses are, or are not, worthy of credence; what facts are, or are not, established; or what inferences should be drawn from the evidence adduced. If any expression of mine has seemed to indicate an opinion relating to any of these matters, I instruct you to disregard it.

"You should carefully scrutinize the testimony given, and in so doing consider all of the circumstances under which any witness has testified, his demeanor, his manner while on the stand, his intelligence, the relations which he bears to the government or the claimant, the manner in which he might be affected by the verdict and the extent to which he might be affected by the verdict and the extent to which he is contradicted or corroborated by

\*See also Nos. 8803-8808, 8988.



other evidence, if at all, and every matter which tends reasonably to shed light upon his credibility.

"A witness false in one part of his testimony may be distrusted in others; that is to say, you may reject the whole testimony of a witness who wilfully has testified falsely as to a material point, unless, from all the evidence, you shall believe that the probability of truth favors his testimony in other particulars.

"You shall consider as evidence any statement of counsel made during the trial, unless such statement was made as an admission or stipulation conceding the existence of a fact or facts.

"You must not consider for any purpose any evidence offered or rejected, or which has been stricken out by the Court; such evidence is to be treated as though you never had heard it.

"You are to decide this case solely upon the evidence that has been admitted by the Court herein, considered in the light of the instructions of the Court. The instructions are to be considered as a whole.

"You are the sole judges of the credibility and the weight to be given to the witnesses who have testified upon this trial. A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies; by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity, or his motives, or by contradictory evidence.

"In judging the credibility of the witnesses in this case, you may believe the whole or any part of the evidence of any witness, or may disbelieve the whole or any part of it, as may be dictated by your judgment as reasonable men.

"You are not bound to decide in conformity with the testimony of a number of witnesses which does not produce conviction in your mind, as against the declarations of a lesser number or a presumption or other evidence which appeals to your mind with more convincing force.

"A fact in issue may be proved either by direct evidence or by proof of other facts or circumstances from which the fact in issue may be inferred.

"You must weigh and consider this case without regard to sympathy, prejudice, or passion for or against any party to the action.

"You are instructed that this proceeding is brought under the Federal Food, Drug, and Cosmetic Act, which provides in part that adulterated foods which have been introduced in interstate commerce may be seized and condemned.

"The government, libellant herein, claims that the 1240 bags of apple chops, which have been seized in this action, were introduced in interstate commerce, and while in interstate commerce were adulterated because they contained added poisonous and deleterious substances, that is, arsenic and lead, which may render them injurious to health when employed as a component part of the apple butter.

"The intent of the claimant is not an issue in this case and has no bearing on the facts you are to decide. The only question for you to determine is whether or not the apple chops fall under the ban of the statute.

"You are instructed that one of the matters to be decided in this case is whether the apple chops are a food within the meaning of the law. The Federal Food, Drug and Cosmetic Act defines what constitutes a food. It says that the term 'food' means articles used for food or drink for man or other animals, and articles used for components of any such article. If you find from the evidence that the apple chops are used for food by man, or are manufactured into another food or used as an ingredient or component of another food, for instance apple butter, then the apple chops are a food within the meaning of the law.

"You are instructed that the Federal Food, Drug and Cosmetic Act also defines under what conditions a food shall be deemed to be adulterated. It says that a food is adulterated if it bears or contains any poisonous or deleterious substances which may render it injurious to health. A substance is poisonous if it has properties or effects of poison. A substance is deleterious if it is hurtful or destructive or detrimental.

"The Court instructs you that the opinions of experts have been introduced in this action for your assistance, but their opinions are not to be substituted for common sense and judgment of the jury. You are to exercise your own independent judgment, giving to such expert opinions such weight only as you deem they are entitled to. The introduction of expert testimony does not preclude you from exercising your own judgment upon the subject. The purpose of the intro-



duction of such expert testimony is to supplement the general knowledge and experience of the jury in relation to the matters before them, and thereby to aid them in the exercise of their own judgment.

"The Court instructs you that it is your exclusive province to determine the credibility of witnesses, including those giving expert testimony, and determine the weight to be given to their testimony.

"The Court instructs you that you are not in any manner to infer or conclude that the apple chops in this case are adulterated because the government has seen fit to institute this proceeding.

"The Court instructs you that the evidence is undisputed that apple chops as such are not used as food but are used in the making of apple butter, jelly and cider, the particular apple chops here involved being intended for use in the making of apple butter.

"The Court instructs you that the question of whether the apple chops contain any poisonous or deleterious substance which may render them injurious to health depends on whether or not the quantity of such poisonous or deleterious substance found in the product into which such apple chops would be manufactured may render such manufactured product injurious to health. If you find that the apple butter into which the apple chops in this case would be manufactured would not have an arsenic or lead content which might render the apple butter injurious to health, then your verdict should be that the apple chops are not adulterated by reason of the presence of lead or arsenic and they should be released to the claimant.

"The Court instructs you that this proceeding has been brought to condemn and destroy 1240 sacks of apple chops of 50 pounds each, for the alleged reason that they contain lead and arsenic in quantities which may render them injurious to health. In a case of this character brought to condemn and destroy property it is necessary that the government establish its case by clear and satisfactory evidence. In other words, if the evidence has not clearly and to your satisfaction established that the apple chops do contain lead and arsenic in quantities that may be injurious to health, your verdict should be for the release of the apple chops to the claimant.

"The Court instructs you that it is proper for you to apply to the facts proved your general knowledge as intelligent men, and take into consideration matters of common knowledge and observation.

"To render a verdict requires the unanimous agreement of the jury. Whatever your verdict is, it must be signed by your foreman.

"For your convenience, the Court has had prepared some forms of verdict which you may take with you when you retire to deliberate."

After consideration of the evidence and arguments of counsel, the jury returned a verdict for the claimant on May 18, 1944, and on May 24, 1944, the libel was ordered dismissed.

Subsequently, an appeal was taken on behalf of the Government to the Circuit Court of Appeals for the Ninth Circuit. On August 1, 1945, the matter came on for hearing before that court, and it having appeared that the claimant had consented to the destruction of the product on the ground that it had become rotten and valueless while in the possession of the court, thereby rendering moot the question upon which the appeal was based, a decree was entered reversing the judgment of the district court and remanding the case for the entry of a decree of destruction.

On September 18, 1945, judgment was entered by the district court ordering that the product be destroyed.

**8921. Adulteration of evaporated apples. U. S. v. Rosenberg Brothers & Co. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 10633. Sample No. 17121-F.)**

**LIBEL FILED:** January 17, 1944, Northern District of California, against Rosenberg Brothers & Co., a corporation.

**ALLEGED SHIPMENT:** On or about October 9, 1942, from Oakland, Calif., to Syracuse, N. Y.

**LABEL, IN PART:** "For Manufacturing Purposes Only. California Evaporated Apples."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect excreta pellets or insect larvae excreta pellets, mold, and worm-tunneled fruit.

**DISPOSITION:** June 20, 1944. A plea of nolo contendere having been entered, the court imposed a fine of \$50.



**8922. Adulteration of dates. U. S. v. 119 Cases of Dates. Default decree of condemnation and destruction. (F. D. C. No. 15435. Sample No. 28712-H.)**

**LIBEL FILED:** February 28, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about November 6, 1944, by the North Ontario Dried Fruit Co., from Los Angeles, Calif.

**PRODUCT:** 119 cases, each containing 15 pounds, of dates at Seattle, Wash.

**LABEL, IN PART:** "Star Choice Deglet Noor Dates Oasis Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of fermentation.

**DISPOSITION:** April 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8923. Adulteration of sliced figs. U. S. v. 583 Cases of Sliced Figs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15452. Sample No. 28518-H.)**

**LIBEL FILED:** April 17, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 5, 1945, by the Bonner Packing Co., from Fresno, Calif.

**PRODUCT:** 583 60-pound cases of sliced figs at Seattle, Wash.

**LABEL, IN PART:** "Bonner Brand Sliced Calimyrna Figs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of sour figs.

**DISPOSITION:** May 17, 1945. The Bonner Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be sorted and segregated, and the unfit portion destroyed by distillation or otherwise, under the supervision of the Federal Security Agency.

**8924. Adulteration of raisins. U. S. v. 146 Cases of Raisins. Default decree of condemnation and destruction. (F. D. C. No. 15770. Sample No. 11519-H.)**

**LIBEL FILED:** March 31, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about January 28, 1944, by the Peloian Packing Co., from Reedley, Calif.

**PRODUCT:** 146 30-pound cases of raisins at Worcester, Mass.

**LABEL, IN PART:** "Pel-Pak Brand Choice Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and fermenting raisins.

**DISPOSITION:** May 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**MISCELLANEOUS FRUIT PRODUCTS**

**8925. Misbranding of apple butter. U. S. v. 423 Cases of Apple Butter. Consent decree of condemnation. Product ordered released for relabeling. (F. D. C. No. 10909. Sample No. 6932-F.)**

**LIBEL FILED:** October 9, 1943, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 19 and September 3, 1943, by Hulman and Co., from Terre Haute, Ind.

**PRODUCT:** 423 cases, each containing 12 1-pound, 14-ounce jars, of apple butter at Mattoon, Ill. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Net weight 1 lb. 14 ozs. Crystal Brand Apple Butter."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Net Weight 1 lb. 14 ozs.," was false and misleading; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** November 6, 1943. Hulman and Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released for relabeling under the supervision of the Food and Drug Administration.



**8926. Adulteration of frozen red currants. U. S. v. 133 Barrels of Frozen Red Currants. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15699. Sample No. 30834-H.)**

**LIBEL FILED:** March 26, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about February 15, 1945, by Joseph Nardone, from Highland, N. Y.

**PRODUCT:** 133 barrels, each containing 350 pounds, of frozen red currants at Los Angeles, Calif. Examination showed that the product had fermented.

**LABEL, IN PART:** "Red Currants \* \* \* Geo. W. Haxton & Son."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 10, 1945. Dixie Preserves, Ltd., Los Angeles, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for use in the manufacture of wine, under the supervision of the Food and Drug Administration.

**8927. Adulteration of blackberry jam. U. S. v. 24 Cases of Blackberry Jam. Default decree of condemnation. Product ordered delivered to a public institution, for use as animal feed. (F. D. C. No. 15731. Sample No. 321-H.)**

**LIBEL FILED:** On or about March 28, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 23, 1944, by the T. W. Garner Food Co., from Winston-Salem, N. C.

**PRODUCT:** 24 cases, each containing 24 1-pound jars, of blackberry jam at Jasper, Fla.

**LABEL, IN PART:** "Garner's Pure Blackberry Jam."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as animal feed.

**8928. Adulteration and misbranding of jelly. U. S. v. A. D. S. Food Products Co. Plea of nolo contendere. Fine, \$200. (F. D. C. No. 12574. Sample No. 30213-H.)**

**INFORMATION FILED:** January 11, 1945, Northern District of California, against the A. D. S. Food Products Co., a partnership, San Francisco, Calif.

**ALLEGED SHIPMENT:** On or about December 11, 1943, from the State of California into the State of Texas.

**LABEL, IN PART:** "Remember Brand Pure Apple [or "Raspberry," "Blackberry," "Loganberry," or "Currant"] Jelly."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, apple juice, raspberry juice, blackberry juice, loganberry juice, and currant juice, respectively, had been in part omitted or abstracted from the products.

Misbranding, Section 403 (g) (1), the articles failed to conform to the definition and standard of identity for jellies since they had been made from mixtures containing less than 45 parts by weight of the fruit juice ingredient to each 55 parts by weight of one of the optional saccharine ingredients specified in the regulations.

**DISPOSITION:** August 20, 1945. A plea of nolo contendere having been entered, a fine of \$200 was imposed.

**8929. Adulteration and misbranding of raspberry-peach filling. U. S. v. 4 Barrels of Raspberry-Peach Filling. Consent decree of condemnation. Product ordered sold. (F. D. C. No. 9887. Sample No. 20012-F.)**

**LIBEL FILED:** On or about May 4, 1943, District of Maine.

**ALLEGED SHIPMENT:** On or about April 5, 1943, by Stack and Carew, Inc., from Boston, Mass.

**PRODUCT:** 4 552-pound barrels of raspberry-peach filling at Biddeford, Maine.

**LABEL, IN PART:** "Princess Brand Raspberry-Peach Filling."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, raspberry, had been in whole or in part omitted from the article; Section 402 (b) (2), an artificially colored mixture containing added raspberry seeds, but little or no raspberry fruit, had been substituted for raspberry-peach filling; Section 402 (b) (3), inferiority had been concealed by the addition of artificial



color and raspberry seeds; and, Section 402 (b) (4), artificial color and raspberry seeds had been added to the article or mixed or packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the statement "Raspberry-Peach Filling" was false and misleading.

**DISPOSITION:** August 12, 1943. The claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered sold for use in making pies. It was to be labeled "imitation raspberry filling."

**8930. Adulteration of black raspberry puree. U. S. v. 19 Barrels of Black Raspberry Puree. Default decree of condemnation and destruction.** (F. D. C. No. 14693. Sample No. 96398-F.)

**LIBEL FILED:** December 6, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 13, 1944, by the Producers Service Corporation, from Benton Harbor, Mich.

**PRODUCT:** 19 400-pound barrels of black raspberry puree at Chicago, Ill. Examination disclosed that the product contained moldy berries.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8931. Misbranding of pear vinegar. U. S. v. 15 Cases of Pear Vinegar. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 15723. Sample No. 30811-H.)

**LIBEL FILED:** March 20, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 17, 1945, by the Perrymead Products Co., Los Angeles, Calif.

**PRODUCT:** 15 cases, each containing 12 bottles, of pear vinegar at New York, N. Y. Examination showed that the article was short-volume.

**LABEL, IN PART:** (Bottle label) "Perrymead Pear Vinegar [blown in bottle]  $\frac{4}{5}$  Quart."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** April 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**8932. Adulteration of wine vinegar. U. S. v. 3 Barrels of Wine Vinegar. Default decree of condemnation and destruction.** (F. D. C. No. 15735. Sample No. 5947-H.)

**LIBEL FILED:** March 22, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 7, 1944, by E. Barbero, Union City, N. J.

**PRODUCT:** 3 49-gallon barrels of wine vinegar at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially colored mixture of wine vinegar and distilled vinegar had been substituted in whole or in part for pure wine vinegar, which the product was represented to be; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), distilled vinegar and artificial color had been mixed and packed with the product so as to reduce its quality or strength and make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the name "Pure Wine Vinegar" was false and misleading as applied to the product.

**DISPOSITION:** April 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### VEGETABLES

**8933. Adulteration of beans. U. S. v. 163 Bags of Beans. Default decree of condemnation and destruction.** (F. D. C. No. 15673. Sample No. 9323-H.)

**LIBEL FILED:** March 26, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about February 2, 1945, by the Michigan Elevator Exchange, from Port Huron, Mich.



PRODUCT: 163 100-pound bags of beans at Perry, N. Y.

LABEL, IN PART: (Portion) "Husky Brand [or "Great Northern Beans"] E. H. Walrath & Sons, Bridger and Edgar, Montana"; (remainder) "Great Northern Beans Packed by Occident Elevator Co., Billings, Montana [or "Packed by Kinney Wholesale Co., Twin Falls, Idaho"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy beans.

DISPOSITION: July 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8934. Adulteration of blackeye beans. U. S. v. 428 Bags of California Black Eye Beans. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 15635. Sample No. 23720-H.)

LIBEL FILED: March 16, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about January 15 and 19, 1945, by the Ady and Crowe Mercantile Co., from Denver, Colo.

PRODUCT: 428 100-pound bags of blackeye beans at Houston, Tex.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy beans.

DISPOSITION: April 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered denatured and delivered to a charitable institution, for use as fertilizer.

**8935. Adulteration of lima beans. U. S. v. 68 Bags of Baby Limas. Default decree of condemnation and destruction.** (F. D. C. No. 15695. Sample No. 24047-H.)

LIBEL FILED: March 28, 1945, Western District of Louisiana.

ALLEGED SHIPMENT: On or about October 10, 1943, from Oxford, Calif.

PRODUCT: 68 100-pound bags of lima beans at Church Point, La., in the possession of the Church Point Wholesale Grocery Co. This product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and urine stains were observed on them. Examination showed that the product contained rodent excreta and rodent hairs.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8936. Misbranding of canned wax beans. U. S. v. 140 Cases of Canned Wax Beans. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 14867. Sample Nos. 88555-F, 88639-F.)

LIBEL FILED: December 26, 1944, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 4, 1944, by the H. L. Forhan Co., from Pittsfield, Maine.

PRODUCT: 140 cases, each containing 24 1-pound, 3-ounce cans, of wax beans at Worcester, Mass.

LABEL, IN PART: "New England Stores Nessco 'Our Supreme Quality' Fancy Cut Golden Stringless Wax Beans \* \* \* New England Stores Service Corporation Distributors Boston Springfield Worcester, Mass. Headquarters."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement, "Fancy Cut Golden Stringless Wax Beans," was false and misleading as applied to an article which was not "Fancy" because of its overmaturity.

DISPOSITION: February 1, 1945. The H. L. Forhan Co., Portland, Maine, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.



**8937. Adulteration of canned corn. U. S. v. 600 Cases of Canned Corn (and 3 other seizure actions against canned corn). Default decrees of condemnation and destruction.** (F. D. C. Nos. 14711 to 14713, incl., 14784. Sample Nos. 71582-F, 74687-F, 74688-F, 83889-F.)

**LIBELS FILED:** December 6 and 27, 1944, Eastern and Western Districts of Washington.

**ALLEGED SHIPMENT:** On or about August 7 and 11, 1944, by the Sterling Canning Co., from Sterling, Ill.

**PRODUCT:** 895 cases and 600 cases, each containing 24 1-pound, 4-ounce cans, of corn at Seattle and Walla Walla, Wash., respectively.

**LABEL, IN PART:** "Nation's Garden Brand Cream Style Golden Sweet Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 28 and June 7, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8938. Misbranding of canned sautéed mushrooms. U. S. v. 77 Cases of Sautéed Mushrooms. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15630. Sample No. 22630-H.)

**LIBEL FILED:** March 14, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 6, 1944, by the Royal Dutch Products Corporation, from New York, N. Y.

**PRODUCT:** 77 cases, each containing 48 cans, of sautéed mushrooms at St. Louis, Mo. Examination showed that the product consisted of a thick sauce containing about 10 percent by weight of mushrooms, whereas it is understood that sautéed mushrooms have been fried lightly in fat.

**LABEL, IN PART:** "Royal Dutch Sauté Holland Style Mushrooms in Sauce \* \* \* prepared from Fresh Mushrooms, Mushroom Juice, Dried Mushrooms, Protein Flour, Oleo Stock, Hydrolyzed Vegetable Protein, Flavoring and Spices."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Sautéed Mushrooms," was misleading as applied to a product which did not consist of mushrooms fried lightly in fat, but which consisted of a sauce containing only a small amount of mushrooms; Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient, since "Protein Flour" and "Oleo Stock" are not common or usual names of products; and, Section 403 (k), the mushrooms contained artificial flavoring and failed to bear labeling stating that fact.

**DISPOSITION:** April 7, 1945. The General Grocer Co., a corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

Nos. 8939 to 8946 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality was charged to fall below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

**8939. Alleged misbranding of canned peas. U. S. v. Lord-Mott Co., Inc. Plea of not guilty. Tried to the court. Verdict of not guilty.** (F. D. C. No. 11368. Sample Nos. 1594-F, 52892-F.)

**INFORMATION FILED:** March 7, 1944, District of Maryland, against the Lord-Mott Co., Inc., Baltimore, Md.; charging that the defendants shipped a quantity of canned peas on or about July 1, 1943, from the State of Maryland into the State of Illinois. The information further charged that on or about July 22, 1943, the defendant sold and delivered a quantity of canned peas to H. M. Wagner & Co., Inc., Baltimore, Md.; that in connection with the sale and delivery of the product, the defendant gave the purchaser a guaranty to the effect that the product so sold complied with the Federal Food, Drug, and Cosmetic Act; and that on or about July 26, 1943, the purchaser shipped the peas, which were sold and guaranteed by the defendant, from the State of Maryland into the State of Virginia.



**LABEL, IN PART:** (Portion sold under guaranty) "Wagner's Mt. Washington Brand Early June Peas \* \* \* Packed For H. M. Wagner & Company, Inc. Baltimore-Washington-Philadelphia." The lot shipped by the defendant in interstate commerce was unlabeled, but it was invoiced as "Unlabeled Std. E. J. Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), both lots of the product were below standard because of failure to meet the standard for canned peas with respect to alcohol-insoluble solids; Section 403 (e) (1), one lot failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (e) (2), the product failed to bear a statement of the quantity of the contents.

**DISPOSITION:** July 18, 1944. The defendant having entered a plea of not guilty, the case was tried before the court. The defendant was found not guilty. The court delivered the following opinion, finding that the regulations establishing a standard of quality for canned peas were unreasonable with respect to tolerance for alcohol-insoluble solids:

COLEMAN, *District Judge*: "The Court, sitting as a jury, a jury having been waived, finds the defendant not guilty. It finds that the Regulation upon alleged violations of which the Information is based, is invalid because it exceeds the authority granted to the Federal Security Administrator, commonly known as the Administrator, by the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (21 U. S. C. A. Secs. 301-392 incl.), to pass such a regulation, and therefore the Court's verdict must be not guilty as to the defendant.

"It is, of course, true that this Court, sitting as a jury in a criminal case, must instruct itself in the same manner that it must instruct a jury with respect to the Constitutional rights and privileges of the defendant, and the requirement as to burden of proof, which is that the Government shall sustain the burden of proof to the satisfaction of the jury (or the court sitting as a jury) beyond a reasonable doubt, upon the evidence, and only upon the evidence, as adduced at the trial. However, in the present case there is raised a defense that may be raised in any criminal case in advance of the actual trial by motion, or demurrer, or, as in the present case, by oral motion supported by testimony taken at the trial, i. e., the defense of invalidity of the Regulation itself. In such case, where the question of validity is a factual one, the weight of the credible evidence controls. The proof of validity—or invalidity—is not required to be established—as is the guilt of the accused once the Regulation is found to be valid—beyond a reasonable doubt. One may be guilty of violating a law or regulation but if the law or regulation is found to be unconstitutional or invalid for any reason, then, of course, it becomes unnecessary to determine whether or not the Government has sustained the burden of proof of guilt to the satisfaction of the jury, or the Court sitting as a jury, beyond a reasonable doubt. So, to summarize, as the Court sees the weight of the credible evidence, it requires the Court to hold that by promulgating the Regulation in controversy the Administrator exceeded the limits of his authority as respects the subject matter upon which it was exercised.

"The pertinent sections of the Federal Food, Drug & Cosmetics Act, are the following: First, among the enumerated acts and the causing thereof which are prohibited are '(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded,' and '(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.' (21 U. S. C. A. Sec. 331, subsections (a) and (b)).

"Second, it is provided that any person who violates the foregoing provisions 'shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.' (21 U. S. C. A. Sec. 333, subsec. (a)).

"Third, the law provides that 'Whenever in the judgment of the Administrator such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate the regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.' (21 U. S. C. A., Sec. 341.)



"Fourth, the law provides that 'A food shall be deemed to be misbranded—\* \* \* '(h) if it purports to be or is represented as—(1) a food for which a standard of quality has been prescribed by regulations as provided by Section 341, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard'; (21 U. S. C. A. Sec. 343, subsec. (h)).

"Fifth, '(a) The authority to promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section, is hereby vested in the Administrator.' (21 U. S. C. A. Sec. 371, subsec. (a)). Following this subsection are detailed provisions covering the conduct of hearings; the effectiveness of definitions and standards of identity; the promulgation of regulations and proposed changes in regulation; the making of orders and the review of orders promulgated as a result of hearings, including provisions for review by the Circuit Court of Appeals for the Circuit wherein any person who would be adversely affected by a given order resides, or has his principal place of business; with provision also for final review by the Supreme Court. Finally, there is the following: '(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.' (21 U. S. C. A. Sec. 371 (f) (6)).

"We reach the conclusion that, independently of the provision just quoted, in a criminal proceeding of this kind in the absence of some clearly expressed, valid provision in the law itself for an exclusive method of testing the validity of regulations or orders of the Administrator, a defendant is not precluded from raising the question at the trial, as has been done in the present case.

"Having thus found that the defendant had a right to be heard, *ab initio*, in this proceeding with respect to the validity of the regulation, regardless of what the testimony, taken at a hearing conducted, as provided by the Act, on behalf of the Administrator, may show; regardless of the motives of the Administrator in promulgating the regulation, and regardless of whether or not the defendant was present at such hearing or was opposed to or in favor of the Regulation, we pass to a recital of the reasons why we think the Administrator exceeded his authority in the present instance, and why, therefore, the defendant was not compelled to meet the requirements of the Regulation with respect to the one specific part of it which is here involved, namely, the so-called alcohol insoluble solids, or the 'AIS', method of testing quality.

"We find from the weight of the credible evidence in the present case that, while this 'AIS' regulation embodies a fair and reasonable way *per se* of determining the grade of canned peas, which, in fact, the defendant admits, nevertheless the Administrator, in the tolerance allowed in the requirements imposed by that method, has failed to make the application of that method just and reasonable to the present defendant and all others in like circumstances.

"Among the suggested findings of fact as reported in the Federal Register of Saturday, November 25, 1939, pages 4679-4682, are the following which were ultimately adopted by the Secretary of Agriculture as the Department findings and formed the basis for the Regulation here in question, and which appear in the Federal Register for Saturday, February 24, 1940, pages 741-744:

48. The extent to which insoluble solids are present governs the mealiness of peas when they are chewed. The art of canning was first devised for the purpose of preserving the succulence of fresh vegetables, and canned peas are a product which simulates, in so far as possible, peas taken direct from the garden, cooked, and eaten. Such peas are not excessively mealy, and the quality of canned peas is lowered, depending in a large measure on the extent to which they are mealy.

49. Mealiness in peas becomes excessive when their content of insoluble solids is such that the peas do not have the proper degree of succulence when eaten. Such mealiness can be measured objectively.

50. Mealiness and insoluble solids content are definitely and directly correlated, and the determination of the insoluble solids gives an accurate index to the mealiness of canned peas.

51. Canned peas are excessively mealy in the consensus of consumer taste, in the case of early June peas, when they contain more than 23.5 per cent of solids insoluble in alcohol; and in the case of sweet peas, when they contain more than 21 per cent of solids insoluble in alcohol.

"Then there follow numerous references to the testimony taken at the hearing duly called and held by the Secretary of Agriculture, for the purpose, among other things, of fixing and establishing a reasonable standard of quality for canned peas, supporting the suggested findings. Also, under 'Suggested Conclusion in the Form of a Regulation,' p. 4682, we find the matter summarized as follows: Section 51.001, '*Canned Peas*—Quality: label statement of substandard quality. (a) The standard of quality for canned peas is as follows:



‘(6) The alcohol insoluble solids of Alaska or other smooth skin varieties of peas from the container are not more than 23.5 percent, and of sweet, wrinkled varieties, not more than 21 percent.’

“Then there follows a detailed description of how the peas shall be tested to determine whether or not they meet the above quoted requirement, as well as the other requirements set forth in the same regulation respecting weight, etc. Since, as already stated, defendant admits the reasonableness of the method prescribed in the Regulation for determining the alcohol-insoluble solids content, it is unnecessary to discuss or to describe that method.

“What has just been quoted was embodied, verbatim, as Regulation No. 51.001, promulgated on the 23rd of February, 1940, and appearing in the Federal Register for Saturday, February 24, 1940, p. 744.

“As has just been said, the Court is satisfied from the weight of the credible evidence introduced in the present case that this figure of 23.5 per cent imposed an undue hardship upon canners in this area, known as the Tri-State Area, comprising Maryland, Delaware and New Jersey, such as the defendant. The testimony is not all to that effect, and due credence must be given to the opposing testimony of the witnesses for the Government. But the Court can not blink the fact that they are naturally interested or biased, in seeing that their work or the work of their associates in this matter is upheld, and when such highly qualified witnesses as the head of the Horticultural Department of the University of Maryland and the Executive Secretary of the Tri-State Packers Association testify, as they did, that it is their definite view that the allowable tolerance for all varieties of Alaska peas works an undue hardship in that it does not give sufficient tolerance to enable such peas grown in this area to be marketed with reasonable readiness and profit, the Court feels that their testimony must be given greater weight than the testimony of the Government’s witnesses.

“It is uncontradicted by the testimony in the present case that a large proportion of packs in recent years in this general area are recognized as not meeting the standard required, by this test, that is, they are labeled sub-standard, for example, in 1941, 28% of the pack was sub-standard. Also, it is uncontradicted that in this area, pea-packing has been declining out of proportion to the decline throughout other sections of the country. It is asserted on behalf of defendant, and the Court feels it has not been successfully contradicted, that this rigid ‘AIS’ requirement has had a material influence in producing these conditions.

“One or more of the witnesses testifying for the defendant have stated what they thought would be a proper, somewhat increased tolerance under the ‘AIS’ requirement. One witness has stated that in his opinion it ought to be placed at 24.5 in place of 23.5. Other witnesses stated they were not entirely sure in their own minds as to just what the figure should be, but that if the law does not allow the setting of a standard for each different grade of every variety of pea, then the blanket tolerance should be somewhere in excess of 23.5.

“Taking all of the foregoing into consideration,—and the Court does not mean that because it has specifically referred to certain parts of the testimony, such is all of the testimony that supports its conclusion,—but taking the testimony as a whole, as the Court sees it, we have here a clear case where an administrative agency has promulgated a regulation, the force and effect of which is to impose a hardship upon those affected by it which is not warranted or required by either the expressed or implied language of the statute, and that, therefore, such a regulation must fall. However, we do not believe it to be this Court’s duty in a case of this kind to attempt to fix, or to say, what the modified tolerance, shall be, except that it shall be somewhat greater. Indeed, it would seem inappropriate for the Court to substitute its lay opinion in matters of this kind for that of the trained expert, by attempting to determine the precise increase to be granted in the tolerance.

“In short, as the Court views the problem here, the question may be divided into two parts: First, is the regulation fair and reasonable in its effect and, second, if not, what regulation would be fair and reasonable? The Court answers the first in the negative, and in answer to the second finds that a regulation giving some tolerance in excess of the tolerance set forth in the original regulation is required, but believes that the precise extent of such greater tolerance is an administrative matter to be determined after due hearing, etc., in the manner prescribed by the Act.

“Finally, the Court desires to point out that its conclusion is based upon the view that the primary object of the provisions of the Act under which this



case has been brought is to protect the consumer public from adulterated and misbranded foods. We are here only concerned with foods, although the Act deals with other things. Underlying that protection is, of course, the basic idea of the promotion and preservation of health, through production and distribution of food which is not deleterious, but healthy. This, of course, presupposes that the public shall be protected from deception as to the true character of the food that is being shipped in interstate commerce. Certainly, the Government is the proper agency to surround the public with the safeguards that are necessary in order to prevent adulterated and misbranded food, but this Court believes that any regulation passed in furtherance of these basic principles exceeds the legitimate bounds of administrative regulation if it does not operate fairly and reasonably with respect to the producers or distributors of the articles involved, as well as with respect to the consumer public. It is true the Administrator is vested with broad, discretionary authority. It is also true that, for this reason, his findings are to be accepted as conclusive if supported by substantial evidence, *provided always, however, they are within statutory and constitutional limitations*. *Security Adm'r vs. Quaker Oats Co.*, 318 U. S. 218. In the present case, we find they are not within either limitation.

"Barring cases of inherently dangerous products, as for example, poisons and habit-forming drugs with respect to which of course very stringent regulations must control, when, as here, we are dealing with one of the commonest vegetables—one of the commonest foods that all of us partake of from day to day not only in season but out (thanks to the canning industry), the rights of the grower and canner of peas must be correlated to the rights of the consumer public, so that *all* are protected in a fair and reasonable manner.

"In the present case it follows from what has been said that the Court finds the Administrator in promulgating that part of Regulation 51.001 here involved, fixing the alcohol-insoluble solids content of Alaska peas at not more than 23.5%, has overemphasized the factor of consumer taste, and thereby has been so rigid in the regulation, in order to meet the consumer taste, that he has acted in undue derogation of the rights of the growers and canners of such peas in this general area. Whether this finding is actually supported by the weight of the credible testimony at the hearing which led up to the promulgation of the Regulation, we do not purport to determine. It is not necessary to do so, because, as heretofore explained, defendant is not controlled by what was proved or decided by that hearing, but has a right to have this Court decide the question of the Regulation's validity upon the evidence produced before it.

"The Administrator does not have *unlimited power* with respect to promulgating food regulations. He has *only* such power as is expressly given him or reasonably implied by the terms of the Act, so that the intent of the Act may be effectively carried out. Each case must be heard and decided upon its own facts. The Court is conscious of the fact that recently several canners appeared in this Court under similar charges, pleaded guilty and the Court imposed fines, but the legality of the Regulation was not raised in those cases. Of course, had it been raised, and had all the features of the issues been presented as fully as in the present case, the Court would have been disposed to reach the same conclusion in those cases that it has reached in the present case. There is no res adjudicata as respects the present defendant by reason of what occurred in previous cases. No defendant in a criminal case is precluded, unless by some express statutory provision or unless he has himself waived the right, from testing the validity of any statute or regulation passed pursuant thereto, when prosecuted for an alleged violation of same.

"Judgment will be signed in accordance with this opinion."

**8940. Misbranding of canned peas. U. S. v. Meyer Levy (Colorado Brokerage Co.).** Plea of *nolo contendere*. Fine, \$250. (F. D. C. No. 15501. Sample No. 57975-F.)

INFORMATION FILED: April 24, 1945, District of Colorado, against Meyer Levy, trading as the Colorado Brokerage Co., Denver, Colo.; charging that the defendant labeled a quantity of substandard canned peas with standard labels while they were held for sale after shipment in interstate commerce, which act resulted in the misbranding of the product. The peas had been shipped to the defendant from Fremont, Nebr., between the approximate dates of August 24 and 28, 1943, and were unlabeled when shipped.

LABEL, IN PART: (After shipment) "Myrna \* \* \* Early June Peas," or Harvester Brand Early June Peas."



**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** May 4, 1945. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$250.

**8941. Misbranding of canned peas. U. S. v. 590 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15217. Sample No. 22613-H.)**

**LIBEL FILED:** February 6, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about September 21, 1944, by the Lakeside Packing Co., from Sheboygan, Wis.

**PRODUCT:** 590 cases, each containing 24 cans, of peas at Des Moines, Iowa.

**LABEL, IN PART:** "Sea Gem Brand Early Peas Size 4 Net Wt. 1 Lb. 4 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was sub-standard.

**DISPOSITION:** March 19, 1945. The Lakeside Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**8942. Misbranding of canned peas. U. S. v. 360 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 14454. Sample No. 97610-F.)**

**LIBEL FILED:** November 10, 1944, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 17, 18, and 24, 1943, by the Hancock-Nelson Mercantile Co., from Stanley, Wis.

**PRODUCT:** 360 cases, each containing 24 20-ounce cans, of peas at Saint Paul, Minn.

**LABEL, IN PART:** "Fawn June Peas \* \* \* Packed by Chippewa Canneries, Chippewa Falls, Wisconsin."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was sub-standard.

**DISPOSITION:** November 13, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution. On June 27, the decree was amended to authorize distribution of the product to several other institutions of similar nature.

**8943. Misbranding of canned peas. U. S. v. 145 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 15446. Sample No. 10011-H.)**

**LIBEL FILED:** February 27, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about January 15, 1945, by A. W. Feeser & Co., Inc., from Taneytown, Md.

**PRODUCT:** 145 cases, each containing 24 cans, of peas at Johnstown, Pa.

**LABEL, IN PART:** "Keymar Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** April 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**8944. Misbranding of canned peas. U. S. v. 136 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15187. Sample No. 18313-H.)**

**LIBEL FILED:** February 2, 1945, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 28, 1944, by the Mineral Point Cooperative Packers, from Mineral Point, Wis.

**PRODUCT:** 136 cases, each containing 24 cans, of peas at Laurens, Iowa.

**LABEL, IN PART:** "Good Meal Brand Wisconsin Early June Peas Contents 1 Lb. 4 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was sub-standard.



DISPOSITION: March 2, 1945. M. & J. R. Hakes, Laurens, Iowa, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8945. Misbranding of canned peas. U. S. v. 83 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15214. Sample No. 18921-H.)**

LIBEL FILED: February 6, 1945, Western District of Michigan.

ALLEGED SHIPMENT: On or about October 6, 1944, by the Whitewater Canning Co., from Whitewater, Wis.

PRODUCT: 83 cases, each containing 24 cans, of peas at Marquette, Mich.

LABEL, IN PART: "Contents 1 Lb. 4 Oz. Allrite Brand Wisconsin Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was substandard.

DISPOSITION: April 16, 1945. The Roach and Seeber Co., Marquette, Mich., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**8946. Misbranding of canned peas. U. S. v. 35 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15354. Sample No. 6086-H.)**

LIBEL FILED: March 6, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about November 28, 1944, by Draper & Co., Inc., Milford, Del.

PRODUCT: 35 cases, each containing 24 1-pound, 3-ounce cans, of peas at New York, N. Y.

LABEL, IN PART: "You No Brand Run of the Pod Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: April 4, 1945. Draper & Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**8947. Misbranding of canned peas. U. S. v. 392 Cases of Canned Peas. Consent decree ordering the release of the product under bond. (F. D. C. No. 15186. Sample No. 26604-H.)**

LIBEL FILED: February 5, 1945, District of Colorado.

ALLEGED SHIPMENT: On or about December 19, 1944, by the Woods Cross Canning Co., from Clearfield, Utah.

PRODUCT: 392 cases, each containing 24 1-pound, 4-ounce cans, of peas at Denver, Colo. Examination showed that the article was substandard in quality because of the presence of hard peas in excess of the maximum permitted by the standard.

LABEL, IN PART: "Clearfield Brand Ungraded Sweet Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product purported to be and was represented as canned peas, a food for which a standard of quality has been prescribed by law, but its quality fell below the standard and its label failed to bear the substandard legend.

DISPOSITION: April 23, 1945. The Woods Cross Canning Co., claimant, having admitted the allegations of the libel, judgment was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**8948. Misbranding of canned strained peas. U. S. v. 2,100 Cans and 194 Dozen Cans of Strained Peas. Decrees of condemnation. Product ordered delivered to charitable institutions. (F. D. C. Nos. 15409, 15441. Sample Nos. 10219-H, 18933-H.)**

LIBELS FILED: On or about February 21 and 26, 1945, Western District of Pennsylvania and District of Minnesota.

ALLEGED SHIPMENT: On or about January 3 and 6, 1945, by Harold H. Clapp, Inc., from Rochester, N. Y.



**PRODUCT:** 2,100 5-ounce cans of strained peas at Minneapolis, Minn., and 194 dozen cans of the same product at Pittsburgh, Pa. Examination showed that the article was short-weight.

**LABEL, IN PART:** "Clapp's Strained Peas [or "Strained Baby Foods Strained Peas"] \* \* \* Net Weight 5 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 29 and April 20, 1945. The owner of a portion of the product having consented to the entry of a decree, judgment was entered ordering it delivered to charitable institutions. No claimant having appeared for the remainder of the product, judgment of condemnation was entered and it was ordered destroyed. On April 4, 1945, the destruction order was rescinded and the product was ordered delivered to charitable institutions.

**8949. Misbranding of potatoes. U. S. v. Bryce Osborne. Plea of guilty. Fine, \$50.** (F. D. C. No. 11398. Sample No. 42944-F.)

**INFORMATION FILED:** April 26, 1944, Southern District of California, against Bryce Osborne, Wasco, Calif.

**ALLEGED SHIPMENT:** On or about June 30, 1943, from the State of California into the State of Washington.

**LABEL, IN PART:** "California Grown Potatoes 100 Lbs. Net."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "100 Lbs. Net" was false and misleading since the sacks contained a smaller amount; and, Section 403 (e) (2), the label of the article failed to bear an accurate statement of the quantity of the contents.

**DISPOSITION:** May 15, 1944. The defendant having entered a plea of guilty, the court imposed a fine of \$50.

**8950. Misbranding of potatoes. U. S. v. 500 Bags of Potatoes. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15687. Sample No. 26836-H.)

**LIBEL FILED:** March 26, 1945, District of Nebraska.

**ALLEGED SHIPMENT:** On or about March 17, 1945, by the Lucerne Potato Growers Cooperative Association, from Lucerne, Colo.

**PRODUCT:** 500 bags of potatoes at Omaha, Nebr. Examination disclosed that the product was short-weight.

**LABEL, IN PART:** "Star Brand Potatoes 100 lbs. Net Sold by Colorado Potato Growers Exchange Denver Colo."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 31, 1945. The Lucerne Potato Growers Cooperative Association, claimant, having admitted that the product was misbranded, judgment of condemnation was entered and the product was ordered released under bond to be resacked under the supervision of the Food and Drug Administration.

**8951. Adulteration and misbranding of sauerkraut. U. S. v. 113 Cases of Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 15717. Sample Nos. 6093-H, 6095-H.)

**LIBEL FILED:** On or about March 29, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 29 and February 10, 1945, by the Cosmo Packing Co., from Bronx, N. Y.

**PRODUCT:** 113 cases, each containing 12 jars, of sauerkraut at Jersey City, N. J. Examination showed that the jars contained an excessive amount of liquid packing medium and an average of 16.37 ounces of drained sauerkraut instead of the minimum of 25 ounces that such size jars should contain.

**LABEL, IN PART:** "Delta Finest Quality Sauerkraut Contents 1 Quart."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), cabbage, salt, vinegar, and water had been substituted for sauerkraut, which the article was represented to be.

Misbranding, Section 403 (d), the container of the product was so filled as to be misleading since, because of the tendency of sauerkraut to disperse in the



liquid packing medium, the jars appeared to contain more sauerkraut than they actually held.

DISPOSITION: August 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8952. Adulteration and misbranding of sauerkraut. U. S. v. 33 Cases of Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 15728. Sample No. 5620-H.)

LIBEL FILED: March 26, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about October 31, 1944, by Becker and Bigman, from Brooklyn, N. Y.

PRODUCT: 33 cases, each containing 12 1-quart jars, of sauerkraut at Newark, N. J.

LABEL, IN PART: "Old Fashioned Sauerkraut."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut, which the article was represented to be.

Misbranding, Section 403 (d), the containers of the article were so filled as to be misleading since the jars appeared to be filled, whereas they could have held at least 20 percent more sauerkraut.

DISPOSITION: May 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8953. Adulteration of ToasTillas (corn product). U. S. v. 412 Dozen Bags and 21 Dozen Bags of ToasTillas (and 2 other seizure actions against ToasTillas). Default decrees of forfeiture. Portion of product ordered delivered to a public institution; remainder ordered destroyed.** (F. D. C. Nos. 15313, 15338, 15756. Sample Nos. 316-H, 912-H, 917-H.)

LIBELS FILED: Between February 28 and March 27, 1945, Southern District of Florida.

ALLEGED SHIPMENT: Between the approximate dates of February 2 and 14, 1945, by the ToasTilla Co., from Columbus, Ga.

PRODUCT: 412 dozen 1½-ounce bags and 21 dozen 4½-ounce bags of ToasTillas at Jacksonville, Fla., and 723 dozen 1½-ounce bags and 86 dozen 4½-ounce packages of the same product at Miami, Fla.

LABEL, IN PART: (Bags) "ToasTillas Ingredients: Whole Grain Corn Cooked in Vegetable Oil Salt Added."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: Between March 28 and May 22, 1945, no claimants having appeared, judgments of forfeiture were entered and a portion of the product was ordered delivered to a public institution, for use as animal feed. The remainder was ordered destroyed.

#### TOMATOES AND TOMATO PRODUCTS

**8954. Adulteration and misbranding of canned tomatoes. U. S. v. 20 Cases and 10 Cases of Canned Tomatoes. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15719, 15720. Sample Nos. 6055-H, 6056-H.)

LIBELS FILED: March 20, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about December 20, 1944, by the Caruso Products Distributing Corporation, Newark, N. J.

PRODUCT: 30 cases, each containing 24 cans, of tomatoes at Bronx, N. Y.

LABEL, IN PART: (Portion of cans) "La Signora Brand \* \* \* Unpeeled Tomatoes." The remainder of the cans were unlabeled.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e) (1), a portion of the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear an accurate statement of the quantity of the contents; and, Section 403 (i) (1), it failed to bear the common or usual name of the food.

DISPOSITION: April 11, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.



**8955. Adulteration of canned tomatoes. U. S. v. 1,787 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered delivered to a public institution, for use as animal feed. (F. D. C. No. 15218. Sample No. 90190-F.)**

**LIBEL FILED:** February 7, 1945, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about September 28, 1944, by the Evans Canning Co., from Galena, Mo.

**PRODUCT:** 1,787 cases, each containing 24 cans, of tomatoes at Little Rock, Ark.

**LABEL, IN PART:** "Evans Brand Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its disagreeable odor and taste, which rendered it unpalatable.

**DISPOSITION:** May 1, 1945. The Evans Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered on April 12, 1945, and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. On April 30, 1945, further analysis of samples having shown that the product was unfit for human consumption, the court ordered it destroyed. On May 1, 1945, by amended order, the product was ordered delivered to a public institution, for use as animal feed.

**8956. Misbranding of canned tomatoes. U. S. v. 107 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15317. Sample No. 2249-H.)**

**LIBEL FILED:** March 6, 1945, Eastern District of North Carolina.

**ALLEGED SHIPMENT:** On or about November 21, 1944, by the Southgate Brokerage Co., Inc., from Norfolk, Va.

**PRODUCT:** 107 cases, each containing 24 cans, of tomatoes at Greenville, S. C.

This product contained liquid, small pieces of tomatoes, and peel in excess of the amounts prescribed by the regulations.

**LABEL, IN PART:** (Can) "Contents 1 lb. 3 oz. Virginia Chief Brand Tomatoes Packed by C. L. Hammack-Port Royal, Va."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes since the drained weight was less than 50 percent of the weight of water required to fill the container, the product contained excessive peel, and it was not labeled as substandard, as required by the regulations.

**DISPOSITION:** April 16, 1945. C. L. Hammack, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**8957. Adulteration of tomato catsup. U. S. v. 38 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. D. C. No. 15299. Sample No. 2223-H.)**

**LIBEL FILED:** March 6, 1945, Eastern District of North Carolina.

**ALLEGED SHIPMENT:** On or about December 26, 1944, by the S. J. Van Lill Co., from Baltimore, Md.

**PRODUCT:** 38 cases, each containing 24 8-ounce bottles, of tomato catsup at Greenville, N. C.

**LABEL, IN PART:** (Bottle) "Van Lill's Astoria Brand Pure Tomato Catsup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8958. Adulteration of tomato juice. U. S. v. 1,001 Cases of Tomato Juice. Default decree of condemnation and destruction. (F. D. C. No. 7572. Sample No. 79681-E.)**

**LIBEL FILED:** May 27, 1942, Middle District of Tennessee; amended March 16, 1943.

**ALLEGED SHIPMENT:** On or about March 25, 1942, by the King Packing Co., from Sweetser, Ind.

**PRODUCT:** 1,001 cases, each containing 24 20-ounce cans, of tomato juice at Nashville, Tenn.



**LABEL, IN PART:** "Hermitage Brand \* \* \* Tomato Juice Distributed by Robert Orr & Co., Nashville, Tenn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of vinegar fly maggots, fly eggs, and rot fragments, and of a decomposed substance by reason of the use in its manufacture of decomposed tomatoes, as evidenced by the presence of mold; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** On February 7, 1944, the King Packing Co., claimant, having obtained permission of the court to withdraw its answer to the libel, judgment of condemnation was entered and the product was ordered destroyed. On April 7, 1944, the court signed an order adjudging the costs of the action against the claimant and ordering the issuance of execution therefor.

**8959. Adulteration of tomato paste. U. S. v. 485 Cases of Tomato Paste. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15390. Sample No. 29306-H.)**

**LIBEL FILED:** February 17, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about January 15, 1945, by the Sun Garden Packing Co., from San Jose, Calif., the product consigned to Jersey City, N. J.

**PRODUCT:** 485 cases, each containing 100 6-ounce cans, of tomato paste at Oakland, Calif.

**LABEL, IN PART:** "Green Bow Brand Tomato Paste."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 10, 1945. The Sun Garden Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**8960. Misbranding of tomato paste. U. S. v. Uddo & Taormina Co. and Angelo Glorioso. Pleas of nolo contendere. Partnership fined \$500; imposition of sentence suspended and individual defendant placed on probation for 3 years. (F. D. C. No. 16511. Sample Nos. 6063-H, 20407-H.)**

**INFORMATION FILED:** November 19, 1945, Southern District of California, against the Uddo & Taormina Co., a partnership, Buena Park, Calif., and Angelo Glorioso, plant superintendent.

**ALLEGED SHIPMENT:** Between the approximate dates of October 2 and November 11, 1944, from the State of California into the State of New York.

**LABEL, IN PART:** "Progresso Brand Pure Tomato Paste [or "Tomato Paste with Basil"]."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity prescribed by the regulations for tomato paste since it contained less than 25 percent of salt-free tomato solids.

**DISPOSITION:** February 26, 1946. Pleas of nolo contendere having been entered by the defendants, the court imposed a fine of \$500 on the partnership; imposition of sentence was suspended on the individual defendant, and he was placed on probation for 3 years.

**8961. Adulteration and misbranding of tomato puree. U. S. v. 297 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. D. C. No. 15342. Sample No. 29309-H.)**

**LIBEL FILED:** March 5, 1945, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about February 9, 1945, by the Mel-Williams Co., from San Francisco, Calif.

**PRODUCT:** 297 cases, each containing 6 6-pound, 9-ounce cans, of tomato puree at Providence, R. I.

**LABEL, IN PART:** "Tom Tom Fancy Tomato Puree \* \* \* Packed by Valley Canning Co. Sonoma, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (a), the label statement "Fancy Tomato Puree" was false and misleading as applied to the product, which was not fancy; and,



Section 403 (g) (1), the product failed to conform to the definition and standard for tomato puree since it contained less than 8.37 percent of salt-free tomato solids.

DISPOSITION: April 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8962. Adulteration and misbranding of tomato puree. U. S. v. 42 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 15426. Sample No. 26011-H.)

LIBEL FILED: February 27, 1945, District of New Mexico.

ALLEGED SHIPMENT: On or about February 8, 1944, by the Taormina Corporation, from Donna, Tex.

PRODUCT: 42 cases, each containing 100 cans, of tomato puree at Clovis, N. Mex.

LABEL, IN PART: "Buffalo Brand Tomato Puree \* \* \* Color Added Net Weight 4¾ Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), it purported to be and was represented as tomato puree, but it failed to conform to the definition and standard for that product since it contained less than 8.37 percent of salt-free tomato solids and since it contained added artificial color which is not provided for in the standard.

DISPOSITION: March 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8963. Adulteration of tomato puree. U. S. v. 4,981 Cases and 2,000 Cases of Tomato Puree. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 12631, 12728. Sample Nos. 77886-F, 77888-F.)

LIBELS FILED: June 7 and 23, 1944, District of New Jersey.

ALLEGED SHIPMENT: Between the approximate dates of May 2 and 9, 1944, by the Sardik Food Products Co., from Lockport, N. Y.

PRODUCT: 6,981 cases, each containing 6 8-ounce cans, of tomato puree at Vineland, N. J.

LABEL, IN PART: (Portion) "Silver Lake Brand Tomato Puree \* \* \* Packed in U. S. A. by Wm. Laning and Son Co. Bridgeton \* \* \* N. J."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: April 2, 1945. Wm. Laning and Son Co. having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond, conditioned that the unfit portion be destroyed or denatured. The product in both shipments was converted into duck feed.

**8964. Adulteration of tomato puree. U. S. v. 336 Cases and 496 Cases of Tomato Puree. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15272, 15733. Sample Nos. 2225-H, 2256-H.)

LIBELS FILED: February 14 and March 26, 1945, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about November 21 and December 13, 1944, by A. W. Sisk and Son, from Hynson, Md.

PRODUCT: 832 cases, each containing 6 cans, of tomato puree at Norfolk, Va.

LABEL, IN PART: (Cans) "Bulow Tomato Puree Bulow Quality Products Contents 6 Lbs. 9 Oz. Packed in U. S. A. By Leon C. Bulow Bridgeville, Del."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 25, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8965. Adulteration of tomato puree. U. S. v. 100 Cases and 149 Cases of Tomato Puree. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15451, 15601. Sample Nos. 22120-H, 22123-H.)

LIBELS FILED: February 28 and March 8, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about February 2, 1945, by John S. Mitchell, Inc., from Sharpsville, Ind.

PRODUCT: 249 cases, each containing 48 10-ounce cans, of tomato puree at St. Louis, Mo.



LABEL, IN PART: "Little Sport Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 5 and 10, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**8966. Adulteration of tomato puree. U. S. v. 700 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 15683. Sample No. 22127-H.)

LIBEL FILED: March 24, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 9, 1944, by the Arthur Canneries, Inc., from Montpelier, Ind.

PRODUCT: 700 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at St. Louis, Mo.

LABEL, IN PART: "Knight Guard O' Quality \* \* \* Indiana Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: July 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8967. Misbranding of tomato puree. U. S. v. 50 Cases of Tomato Puree. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 15401. Sample No. 90076-F.)

LIBEL FILED: On or about February 20, 1945, Western District of Kentucky.

ALLEGED SHIPMENT: On or about October 23, 1943, by the White and Sloat Canning Co., from Whitesburg, Tenn.

PRODUCT: 50 cases, each containing 6 cans, of tomato puree at Mayfield, Ky. Examination showed that the product was short-weight and that it contained less than 8.37 percent of salt-free tomato solids.

LABEL, IN PART: "White's Standard Quality Tomato Puree Contents 6 Lbs. 8 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (g) (1), it failed to conform to the definition and standard for tomato puree since the definition and standard requires that tomato puree shall contain not less than 8.37 percent of salt-free tomato solids, whereas the article contained less than that amount.

DISPOSITION: May 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**8968. Misbranding of tomato puree. U. S. v. 800 Cases of Tomato Puree. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15291. Sample Nos. 5942-H, 6081-H.)

LIBEL FILED: February 19, 1945, Eastern District of New York.

ALLEGED SHIPMENT: Between the approximate dates of October 28 and November 14, 1944, by the Escalon Packers, Inc., from Escalon, Calif.

PRODUCT: 800 cases, each containing 6 cans, of tomato puree at Brooklyn, N. Y. Examination showed that the article was short-weight.

LABEL, IN PART: (Cans) "Bonta Fancy Tomato Puree Net Weight 6 Lb. 8 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: March 23, 1945. The Escalon Packers, Inc., having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**8969. Adulteration of tomato sauce. U. S. v. 1,574 Cases of Tomato Sauce. Default decree of condemnation and destruction.** (F. D. C. No. 15189. Sample No. 27306-H.)

LIBEL FILED: February 3, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about November 20, 1944, by the Western California Cannery, Inc., from Antioch, Calif.



**PRODUCT:** 1,574 cases, each containing 72 8-ounce cans, of tomato sauce at Portland, Oreg.

**LABEL, IN PART:** "S and W Tomato Sauce Spanish Style."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### MEAT AND POULTRY \*

**8970. Misbranding of canned cooked ham. U. S. v. 23 Cases of Canned Cooked Ham. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 15387. Sample No. 28323-H.)**

**LIBEL FILED:** March 2, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 17, 1945, by the Metropolitan Pool Car Associates, from New York, N. Y.

**PRODUCT:** 23 cases, each containing 6 cans, of cooked ham at Seattle, Wash. Examination showed that the article was short-weight.

**LABEL, IN PART:** (Cans) "Esskay Quality Ham \* \* \* Contents 12 lbs, 13 ozs. [or other weight marked on can] Packed By The Wm. Schluderberg-T. J. Kurdle Co. Baltimore, Maryland."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 8, 1945. Meats, Inc., Seattle, Wash., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**8971. Misbranding of frozen muskrats. U. S. v. 27,360 Pounds of Frozen Muskrats. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16237. Sample No. 11647-H.)**

**LIBEL FILED:** May 23, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about May 5, 1945, by the Southern United Ice Co., from Hammond, La.

**PRODUCT:** 27,360 pounds of frozen muskrats at Worcester, Mass.

**NATURE OF CHARGE:** Misbranding, Section 403 (b), the product was offered for sale under the name of another food, rabbit; Section 403 (e) (1), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (i) (1), the label failed to bear the common or usual name of the food.

**DISPOSITION:** July 9, 1945. Manuel Sigel, trading as the New Model Market, Worcester, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into animal feed, under the supervision of the Food and Drug Administration.

**8972. Alleged adulteration of dressed poultry. U. S. v. Wilson and Co. Plea of not guilty. Tried to a jury. Verdict of not guilty. (F. D. C. No. 9692. Sample No. 9047-F.)**

**INFORMATION FILED:** On September 20, 1943, in the District of Kansas, against Wilson and Co., a corporation, Wichita, Kans.

**ALLEGED SHIPMENT:** On or about March 17, 1943, from the State of Kansas into the State of Texas.

**LABEL, IN PART:** "Wilson's Certified Poultry."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodents, rodent nests, rodent pellets, and rodent-gnawed poultry.

**DISPOSITION:** March 15, 1944. The defendant having pleaded not guilty, the case came on for trial before a jury. The following facts were stipulated by the counsel for the Government and the defendant:

"1. That the defendant, Wilson & Company, is a corporation duly organized and existing under and by virtue of law.

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\* See also No. 8861.



"2. That the defendant, Wilson & Company, processed the dressed poultry referred to in the information.

"3. That the defendant, Wilson & Company, delivered said dressed poultry, properly packaged, to the Wichita Ice & Cold Storage Company, a corporation, of Wichita, Kansas, at its receiving dock in Wichita, Kansas, on September 13, 1942, in good condition.

"4. That when said goods were delivered to the warehouse they were destined for interstate shipment. They were held by the warehouse until on or about March 17, 1943, when the warehouse was directed by Wilson & Company by telephone to consign to the accountable officer, Quartermaster, Market Center, Fort Worth, Texas, 668 boxes of chickens. The warehouse thereupon, out of the goods warehoused with them at that time by Wilson & Company amounting to 210,000 lbs. of chickens, selected or took 668 boxes weighing 27,858 lbs., loaded them on a refrigerator car (Santa Fe No. 25131) which had been ordered by the warehouse and placed at the warehouse's dock. The warehouse sealed the car, notified Wilson & Company of the weight and car number, and Wilson & Company thereupon made out a bill of lading.

"5. When the goods reached Fort Worth, Texas, they were warehoused with the Texas Ice & Refrigerator Company. A United States Food & Drug Inspector, in pursuance of his work of inspecting foods in warehouses, examined the chickens in question on or about the 22d day of March, 1943, and found 48 of the 668 boxes to be adulterated with mice, mice nests and mice droppings.

"6. The adulteration mentioned in paragraph five above occurred during the time while the goods were in storage in the Wichita Ice & Cold Storage Company at Wichita, Kansas, and did not occur in the plant of Wilson & Company.

"7. That all goods delivered by Wilson & Company to the Wichita Ice & Cold Storage Company went into interstate commerce.

"8. That the Wichita Ice & Cold Storage Company is a licensed, bonded warehouse and that approximately 75 per cent of the goods handled by it either originate outside the State of Kansas and are delivered to the warehouse to the account of various consignees or are delivered to the warehouse from various shippers in Wichita, Kansas, for storage and delivery to carriers for shipment outside the State of Kansas."

Following the submission of evidence on behalf of the Government and the defendant, and following arguments of counsel, the court instructed the jury as follows:

HELVERING, *District Judge*: "Gentlemen of the Jury, the Court will now instruct you to the best of its ability as to your duty and the law in this case. The burden of proof, of course, is on the Government in the prosecution of this Information about these offenses. In this case the defendant, Wilson & Co., is charged in this Information with a very serious offense. Under the law in a criminal case of this kind they are presumed to be innocent until they are proven guilty of some act which satisfies your minds beyond a reasonable doubt that they are guilty. The Government has the burden to prove the charges it has made and before the defendant can be found guilty of any offense or offenses as charged in this information, such offense or offenses which is in this case the statement of facts submitted to you and on record must be proved.

"Now I further instruct you that the defendant in a criminal case of this kind is not required by law to prove his innocence, but the burden is upon the United States in this case to prove his guilt of the offense charged in every instrumentality held. The stipulation here leaves no doubt in your mind as to the facts. The attorneys have stipulated what the facts are which would be introduced and proven by the evidence. This defendant is presumed to be innocent of any such charge until his guilt is established by the statement of facts and your hearing of the explanations of the attorneys as to their view of the law. In the event you have a reasonable doubt upon the whole case as to the defendant being proven guilty, then it is your duty to resolve in his favor and acquit him. You are further instructed that the defendant charged in this case is a corporation and a corporation can only act through the individuals who act in his behalf or its agents. Therefore, if you find by this stipulation and the statements made to you to the satisfaction of your mind that any person, agent, or employee of defendant corporation acting in its behalf and within the scope of their authority did any act charged in this Information you will find the defendant corporation guilty as charged.



"There has been a great deal of discussion here about interstate commerce. The term interstate commerce is established in the Statutes. It means the commerce between the various states or territories to other states and territories of the United States thereof, and to introduce or deliver for introduction into interstate commerce, to transport from one state to another or to put in the hands of a carrier for the purpose of transportation from one state to another. In this connection you are instructed that if the defendants delivered or caused to be delivered to a railroad company an article to be delivered by such railroad company to another state, then as contemplated by this Statute the article so delivered has been delivered for introduction into interstate commerce. As established in the Statute the term person includes this corporation. Under the Statute as described, food means any articles used for human consumption or food for domestic animals. Under the Statute food is adulterated if it has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth or whereby it may have been rendered injurious to health or if it consists in whole or in part of any filthy or decomposed substance and which renders it unfit for food.

"The purpose of this Statute is that of protecting and preserving the health of the public, and it is an offense to introduce or deliver for introduction into interstate commerce any adulterated food, even though consciousness of the wrongdoing is duly wanting. The only question to be determined by the Jury is: Did this defendant introduce or deliver for introduction into interstate commerce an article of food? Upon the stipulation of the charges it is admitted that the food was adulterated. So it resolves then for you gentlemen to determine only one question, did the defendant introduce or deliver for introduction into interstate commerce this article of food? I might say to you gentlemen in that connection as the Court views the law this food was placed in a warehouse by Wilson & Co. subject to their order. On a certain date stipulated they ordered sent by the company with whom it was stored, the warehouse, certain portions of that product stored in their warehouse. There was no action that could be taken by the warehouse to start this in interstate shipment. The act was on the order of the defendant which placed this under the Statute and started the transportation of this food in interstate commerce. Section 331 of the Statutes contains the precept of the Food Act and prohibits the introduction or delivery by the person or delivery for introduction into interstate commerce. Either of these would constitute an offense against the precept of this Statute. And the Statute sets forth certain penalties in case any person even causes to be violated any of these precepts.

"You are further instructed, Gentlemen of the Jury, that you are the sole judges to consider the facts stipulated. With those the Court has nothing to do. They are the agreed statement of facts as between the attorneys for the prosecution and the defendants. However, in determining the weight or value to be given such statements of facts, the interest that they have in the outcome of this suit should be considered. Considering that this statement of facts will be the basis of the verdict that you bring in, you will consider the weight of various matters herein arising to the best of your ability. And in dealing with this whole case you must bring to your assistance your common everyday knowledge of human nature and your experience in human affairs. From the stipulation of facts there is no question that the food was adulterated under the precept of this Statute. The Court instructs you that the law imposes that any person putting in interstate commerce adulterated food, whether he knows it to be adulterated or not, is guilty of the offense charged in this Information. These will be the instructions the Court would give you in considering this case. I will ask the attorneys for both sides if they have any further instruction they want presented."

ATTORNEYS: "We have no further instruction, Your Honor."

The jury returned a verdict of not guilty.

**8973. Adulteration of poultry. U. S. v. 558 Cartons and 593 Cartons of Poultry. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16064, 16065. Sample Nos. 6105-H, 6106-H.)**

**LIBELS FILED:** April 26, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 3 and 8, 1945, by the General Cold Storage Co., from Philadelphia, Pa.

**PRODUCT:** 1,151 cartons each containing 18 chickens at Jersey City, N. J. This product was examined in the railroad cars. The upper layers of the poultry



were completely or partially thawed out, and a large part of the product was decomposed.

**LABEL, IN PART:** "Chickens \* \* \* Henlopen Poultry Co. [or "Caroline Poultry Farms," "Dover Dressed Poultry," or "Stockley Poultry Co."]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 6, 1945. The Pennsylvania Railroad Co., claimant, having admitted the allegations of the libels and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and converted into tankage under the supervision of the Food and Drug Administration.

**8974. Adulteration of frozen poultry. U. S. v. 264 Boxes of Frozen Poultry. Default decree of condemnation. Product ordered sold. (F. D. C. No. 14564. Sample No. 83065-F.)**

**LIBEL FILED:** November 27, 1944, District of New Jersey.

**ALLEGED SHIPMENT:** On or about August 12, 1944, by the Canada Packers, Ltd., from London, Ontario, Canada.

**PRODUCT:** 264 boxes of frozen poultry at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 13, 1945. No claimant having appeared, judgment of condemnation was entered and it was ordered that the product be sold and that the purchaser execute a bond conditioned upon the separation of the good poultry from the bad, under the supervision of the Food and Drug Administration.

**8975. Adulteration of frozen poultry. U. S. v. 209 Boxes of Frozen Poultry. Default decree of condemnation. Product ordered sold. (F. D. C. No. 14446. Sample No. 83066-F.)**

**LIBEL FILED:** November 27, 1944, District of New Jersey.

**ALLEGED SHIPMENT:** On or about August 12, 1944, by the Swift Canadian Company, from West Toronto, Ontario, Canada.

**PRODUCT:** 209 boxes of frozen poultry at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 13, 1945. No claimant having appeared, judgment of condemnation was entered and it was ordered that the product be sold and that the purchaser execute a bond conditioned upon the separation of the good poultry from the bad, under the supervision of the Food and Drug Administration.

### NUTS AND NUT PRODUCTS\*

**8976. Adulteration of candy-covered peanuts. U. S. v. 10 Cases of Candy-Covered Peanuts. Default decree ordering product disposed of as animal feed. (F. D. C. No. 15476. Sample No. 31018-H.)**

**LIBEL FILED:** March 3, 1945, District of Utah.

**ALLEGED SHIPMENT:** On or about February 20, 1945, by the Reliable Nut Co., from Los Angeles, Calif.

**PRODUCT:** 10 cases, each containing 12 boxes of 24 1¼-ounce packages, of candy-covered peanuts at Richfield, Utah.

**LABEL, IN PART:** "Royal Seal Toasted Candy Covered Peanuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 21, 1945. No claimant having appeared, judgment was entered ordering the product fed to animals, as directed by the marshal.

**8977. Adulteration of peanut butter. U. S. v. 319 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 15325. Sample No. 11611-H.)**

**LIBEL FILED:** February 26, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 1 and 21 and August 16, 1944, by Southgate Foods, from Norfolk, Va.

\*See also No. 8850.



PRODUCT: 319 cases, each containing 12 2-pound jars, of peanut butter at Boston, Mass.

LABEL, IN PART: (Jars) "Lynnhaven Brand Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

DISPOSITION: April 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8978. Adulteration of peanut butter. U. S. v. 63 Cases of Peanut Butter. Decree of condemnation and destruction. (F. D. C. No. 15757. Sample No. 32030-H.)**

LIBEL FILED: April 3, 1945, District of Arizona.

ALLEGED SHIPMENT: On or about February 26, 1945, by the Morris Rosenberg Co., from Los Angeles, Calif.

PRODUCT: 14½ cases, each containing 24 8-ounce jars, 24½ cases, each containing 24 1-pound jars, and 24 cases, each containing 12 1½-pound jars, of peanut butter at Mesa, Ariz.

LABEL, IN PART: (Jars) "Rose Brand Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 29, 1945. The Allied Sales Co., Phoenix, Ariz., and Morris Rosenberg Co., claimants, having had tests made of samples and having announced that they did not desire to contest the action, judgment of condemnation was entered and the product was ordered destroyed.

**8979. Adulteration of cracked pecans. U. S. v. 39 Bags of Pecan Meats and Shell. Default decree of condemnation and destruction. (F. D. C. No. 15604. Sample No. 32027-H.)**

LIBEL FILED: March 10, 1945, Western District of Texas.

ALLEGED SHIPMENT: On or about February 24, 1945, by the Morris Rosenberg Co., from Los Angeles, Calif.

PRODUCT: 39 bags, containing approximately 4,114 pounds, of cracked pecans at El Paso, Tex.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, larvae, flies, and insect fragments.

DISPOSITION: May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8980. Adulteration of shelled black walnuts. U. S. v. 1 Barrel of Black Walnuts. default decree of condemnation and destruction. (F. D. C. No. 15711. Sample No. 732-H.)**

LIBEL FILED: March 21, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about April 8, 1944, from Broadway, Va.

PRODUCT: 1 barrel, containing about 150 pounds, of black walnuts at Atlanta, Ga., in the possession of the Atlantic Co. This product had been stored under insanitary conditions after shipment. Rodent pellets were observed on the barrel head, and examination showed that the product contained rodent excreta pellets and rodent hairs.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8981. Adulteration of walnut meats. U. S. v. 540 Cartons of Walnut Meats. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15729. Sample Nos. 11223-H, 11230-H.)**

LIBEL FILED: March 21, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about January 22, 1945, by the Martin Donig Nut Co., from San Jose, Calif.

PRODUCT: 388 25-pound cartons and 152 23-pound cartons of walnut meats at Boston, Mass.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested, moldy, and rancid walnut meats.

**DISPOSITION:** April 26, 1945; amended May 14 and October 15, 1945. The Alma Nut Shelling Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for sorting and cleaning, with the removal of all objectionable material, under the supervision of the Food and Drug Administration.

**8982. Adulteration of shelled walnut meats. U. S. v. 5 Boxes of Shelled Walnut Meats. Default decree of condemnation and destruction.** (F. D. C. No. 15691. Sample No. 26632-H.)

**LIBEL FILED:** April 3, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 19, 1945, by the Sunset Nut Shelling Co., from Whittier, Calif.

**PRODUCT:** 5 25-pound boxes of walnut meats at Denver, Colo.

**LABEL, IN PART:** "California Shelled Walnuts Halves and Pieces Garnet Grade Sunset Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of worm-damaged and moldy walnut meats.

**DISPOSITION:** April 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8983. Adulteration of shelled walnut meats. U. S. v. 28 Boxes of Shelled Walnut Meats. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15690. Sample No. 26630-H.)

**LIBEL FILED:** April 2, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 27, 1945, by the L. Demartini Co., from San Francisco, Calif.

**PRODUCT:** 28 boxes of shelled walnut meats at Denver, Colo.

**LABEL, IN PART:** (Boxes) "Shellerrun 25 Lbs. Net West Owl Brand Shelled Walnut Halves & Pieces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy nut meats.

**DISPOSITION:** April 23, 1945. The L. Demartini Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration.

### SPICES, FLAVORS, AND SEASONING MATERIALS

**8984. Adulteration of chili powder. U. S. v. 3 Barrels and 2 Barrels of Chili Powder. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15666, 15816. Sample Nos. 43604-F, 20335-H.)

**LIBELS FILED:** March 23 and 28, 1945, Northern and Eastern Districts of Oklahoma.

**ALLEGED SHIPMENT:** On or about February 17 and March 26, 1945, by the C. B. Gentry Co., from Kansas City, Mo.

**PRODUCT:** 3 barrels and 2 barrels, each containing 230 pounds, of chili powder at Tulsa and McAlester, Okla., respectively.

**LABEL, IN PART:** "C. B. Gentry Special F Chili Powder," or "Gentry's Special F Mexican Chili Powder."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of rodent hairs, insect fragments, rodent hair fragments, and mold.

**DISPOSITION:** April 9 and June 30, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.



**8985. Adulteration of chili powder. U. S. v. 2 Barrels of Chili Powder. Decree of condemnation and destruction.** (F. D. C. Nos. 15612, 15613. Sample Nos. 26437-H, 26438-H.)

**LIBEL FILED:** On or about March 15, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 20, 1945, by Phil Hantover, Inc., from Kansas City, Mo.

**PRODUCT:** 2 barrels of chili powder at Denver, Colo.

**LABEL, IN PART:** "Gentry's Special F Mexican Chili Powder C. B. Gentry Company, Los Angeles, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent hair fragments, insect fragments, and mold.

**DISPOSITION:** March 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8986. Adulteration of nutmegs. U. S. v. 35 Bags of Nutmegs. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15642. Sample No. 22638-H.)

**LIBEL FILED:** March 17, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about August 18, 1944, by the Metropolitan Pool Car Association, from New York, N. Y.

**PRODUCT:** 35 200-pound bags of nutmegs at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and moldy nutmegs.

**DISPOSITION:** April 5, 1945. The David G. Evans Coffee Co., St. Louis, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8987. Adulteration of ground nutmeg. U. S. v. 38 Cannisters of Nutmeg. Default decree of condemnation and destruction.** (F. D. C. No. 15745. Sample No. 11115-H.)

**LIBEL FILED:** March 26, 1945, District of Maine.

**ALLEGED SHIPMENT:** On or about January 11, 1945, by the Cunningham Spice Co., from Malden, Mass.

**PRODUCT:** 38 1-pound cannisters of ground nutmeg at Portland, Maine.

**LABEL, IN PART:** "Cunningham Genuine Spices Tyott Brand \* \* \* Nutmeg."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8988. Adulteration of red peppers. U. S. v. 12 Bags of Red Peppers. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15474. Sample No. 22418-H.)

**LIBEL FILED:** March 5, 1945, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 30, 1942, by Thomas Scott & Co., Inc., from New York, N. Y.

**PRODUCT:** 12 100-pound bags of red peppers at Peoria, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, larvae, and insect fragments.

**DISPOSITION:** May 24, 1945. Allaire, Woodward & Co., Peoria, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the salvage of the usable portion and the destruction of the unfit portion, under the supervision of the Food and Drug Administration.



**8989. Adulteration of rubbed sage. U. S. v. 111 Cases of Rubbed Sage. Default decree of condemnation and destruction.** (F. D. C. No. 15688. Sample No. 21805-H.)

**LIBEL FILED:** March 30, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about February 6, 1945, by the Jas. H. Forbes Tea and Coffee Co., from St. Louis, Mo.

**PRODUCT:** 111 cases, each containing 12 cans, of rubbed sage at Memphis, Tenn.

**LABEL, IN PART:** "Martha Washington Brand Rubbed Sage."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

**DISPOSITION:** May 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**8990. Adulteration of spices. U. S. v. 158 Bags and 12 Bags of Turmeric Root, 6 Bags and 23 Bags of Nutmeg, and 23 Bags of Ginger. Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 15259, 15392, 15404, 15462, 15610. Sample Nos. 22620-H to 22622-H, incl., 22625-H, 22632-H.)

**LIBELS FILED:** Between February 12 and March 9, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of May 17 and October 19, 1944, by the P. H. Petry Co., from New York, N. Y.

**PRODUCT:** 23 180-pound bags and 6 200-pound bags of nutmegs, 23 200-pound bags of whole ginger, and 170 140-pound bags of turmeric root at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, insect excreta, beetles, larvae, frass, and insect-infested nutmegs; and, in addition, the nutmegs consisted in whole or in part of a decomposed substance by reason of the presence of moldy nutmegs.

**DISPOSITION:** Between March 9 and April 15, 1945, the David G. Evans Coffee Co., St. Louis, Mo., claimant for a portion of the turmeric root, Joseph Frimel, Jr., trading as the Commercial Coffee Co., St. Louis, Mo., claimant for a portion of the nutmegs, and the Jas. H. Forbes Tea and Coffee Co., St. Louis, Mo., claimant for the remainder of the products, having admitted the allegations of the respective libels, judgments of condemnation were entered and the products were ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. On April 16 and 18, 1945, amended decrees were entered permitting the claimants for the nutmegs to sell the product for the extraction of the volatile oil, under the supervision of the Food and Drug Administration.

**8991. Adulteration of spices. U. S. v. 1 Barrel of Ground Cloves, 1 Bag of Pickling Spice, 1 Barrel of Ground Allspice, and 1 Barrel of Chili Peppers. Default decree of condemnation and destruction.** (F. D. C. No. 15671. Sample Nos. 26030-H to 26033-H, incl.)

**LIBEL FILED:** March 27, 1945, Northern District of Texas.

**ALLEGED SHIPMENT:** Between the approximate dates of November 29, 1943, and October 18, 1944, by the David G. Evans Coffee Co., St. Louis, Mo.

**PRODUCT:** 1 150-pound barrel of ground cloves, 1 100-pound bag of pickling spice, 1 50-pound barrel of ground allspice, and 1 70-pound barrel of chili peppers at Amarillo, Tex.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, rodent excreta, insects, insect fragments, beetles, and larvae.

**DISPOSITION:** May 15, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**8992. Misbranding of vanilla extract, lemon extract, and celery seed. U. S. v. 59 Cartons of Vanilla Extract, 20 Cartons of Lemon Extract, and 34 Cartons of Celery Seed. Default decree of condemnation. Products ordered delivered to charitable institutions.** (F. D. C. No. 15751. Sample Nos. 4437-H to 4439-H, incl.)

**LIBEL FILED:** March 26, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of December 22, 1944, and February 21, 1945, by John Lecroy and Son, from Camden, N. J.

**PRODUCT:** 59 cartons, each containing 12 ½-fluid ounce bottles, of vanilla extract; 20 cartons, each containing 12 ½-fluid ounce bottles, of lemon extract;



and 34 cartons, each containing 12 1-ounce packages, of celery seed at Philadelphia, Pa.

**NATURE OF CHARGE:** Vanilla and lemon extract. Misbranding, Section 403 (d), the containers were so made, formed, and filled as to be misleading since the individual cartons were too large for the bottles they contained.

Celery seed. Misbranding, Section 403 (d), the containers were so filled as to be misleading since the celery seed occupied only about 62 percent of the volume of the package.

**DISPOSITION:** April 24, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to charitable institutions.

### MISCELLANEOUS FOODS\*

#### VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES

**8993. Misbranding of Essence No. 7, Fernel Nerve and Brain Food, Breasts of Youth Capsules, and Endocrin Rejuvenation Food. U. S. v. Dr. Jean Paul Fernel. Plea of not guilty. Tried to the court. Verdict of guilty. Sentence of 1 year in jail plus fine of \$500 affirmed on appeal. (F. D. C. No. 8819. Sample Nos. 73985-E, 80690-E, 82103-E, 82104-E.)**

**INFORMATION FILED:** April 29, 1943, Northern District of Illinois, against Dr. Jean Paul Fernel, Chicago, Ill.; amended information filed October 25, 1943.

**ALLEGED SHIPMENT:** Between March 17 and April 25, 1942, from the State of Illinois into the States of Kansas, Ohio, and Florida.

**PRODUCT:** Analyses disclosed that the Essence No. 7 consisted of magnesium chloride; that the Fernel Nerve and Brain Food contained calcium phosphate, an oily material, and starch; that the Breasts of Youth Capsules contained glandular material and mineral matter, including compounds of aluminum and silicon; and that the Endocrin Rejuvenation Food consisted essentially of glandular material, including pancreas and salt.

**NATURE OF CHARGE:** *Essence No. 7.* Misbranding, Section 403 (a), a certain label statement was false and misleading since it represented and suggested that the article contained essential halogen food minerals, whereas it did not contain all the essential halogen food minerals; and, Section 403 (i) (1), the label did not bear the common or usual name of the article, i.e., magnesium chloride.

*Fernel Nerve and Brain Food.* Misbranding, Section 403 (a), the name of the article was misleading since it represented and created the impression that the article contained ingredients of special value in the nourishment of the nerves and brain, whereas it contained inconsequential amounts of ingredients having food value; and the statement, "Liniodol, remedies colds and catarrh," in an accompanying price list, was false and misleading since it represented and suggested that the drug Liniodol would be efficacious in the cure, mitigation, treatment, or prevention of colds and catarrh, whereas it would not be efficacious for such purposes. Further misbranding, Section 403 (i) (2), the label did not bear the common or usual name of each ingredient of the article.

*Breasts of Youth Capsules.* Misbranding, Section 403 (a), the name of the article and certain statements on the label were false and misleading since they represented and created the impression that the article would be efficacious in correcting underdeveloped, atrophied, flabby, and pendulous breasts; that it would be efficacious in developing in the consumer the firm, well-developed breasts of youth; and that the article would be efficacious in developing and nourishing the bust or breasts. The article would not be efficacious for those purposes. Further misbranding, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient of the article.

*Endocrin Rejuvenation Food.* Misbranding, Section 403 (a), the name of the article was false and misleading since it represented and suggested that the article would rejuvenate and restore youthful vigor, whereas it would not rejuvenate and restore youthful vigor; and, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient of the article.

The Breasts of Youth Capsules and certain other articles known as Thymus Arthritis Treatment and Liniodol were alleged to be misbranded under the

\*See also No. 8858.



provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1560.

**DISPOSITION:** On November 10, 1943, the defendant having entered a plea of not guilty, the case came on for trial before the court. On November 16, 1943, the defendant was found guilty, was sentenced to serve 1 year in jail, and was fined \$500. Notice of appeal to the United States Circuit Court of Appeals for the Seventh Circuit was filed by the defendant on November 19, 1943, and on October 3, 1944, a decision was handed down by that court affirming the decision of the district court.

**8994. Misbranding of Min-O-Malt and Vita-Lac. U. S. v. The Energy Food Co. Plea of guilty. Fine, \$900. (F. D. C. No. 12554. Sample Nos. 20294-F, 20299-F, 23475-F.)**

**INFORMATION FILED:** July 5, 1945, Eastern District of New York, against the Energy Food Co., Brooklyn, N. Y.

**ALLEGED SHIPMENT:** Between the approximate dates of August 11 and October 4, 1943, from the State of New York into the States of Massachusetts and Pennsylvania.

**LABEL, IN PART:** (Min-O-Malt, circular) "A pint jar of Improved Min-O-Malt contains 35,000 Units of Vitamin A, more than is found in 30 pounds of bananas. \* \* \* 2,500 Units of Vitamin B<sub>1</sub> (Thiamin Hydrochloride), more than is found in 25 bowls of cooked oatmeal. \* \* \* 14,000 Micrograms of Vitamin B<sub>2</sub> (Riboflavin), more than is found in 55 pounds of tomatoes. \* \* \* 85 Milligrams of Niacinamide, more than is found in 25 pounds of veal. \* \* \* 3,500 Units of Vitamin D, more than is found in 125 quarts of milk. \* \* \* 1,200 Milligrams of Calcium, more than is found in 33 pounds of liver. \* \* \* 1,100 Milligrams of Phosphorus, more than is found in 12 pounds of butter. \* \* \* 84 Milligrams of Iron, more than is found in 80 pounds of milk"; (Vita-Lac, circular) "A pint jar of Vita-Lac contains 35,000 Units of Vitamin A, more than is found in 30 pounds of bananas. \* \* \* 3,500 Units of Vitamin D, more than is found in 125 quarts of milk. \* \* \* 1,200 Milligrams of Calcium, more than is found in 33 pounds of liver. \* \* \* 1,100 Milligrams of Phosphorus, more than is found in 12 pounds of butter. \* \* \* 84 Milligrams of Iron, more than is found in 80 pounds of milk."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements in the labeling were misleading since they represented, suggested, and implied that it is unwise and impractical to rely on ordinary foods to supply the vitamins and minerals required by the body; that it is necessary and advisable to supplement the diet with additional vitamins in order to insure an excess of vitamins; that 1 pint of the articles contained all of the essential vitamins and minerals which are present in the various foods with which comparison was made in the labeling; that the articles contained nutritional factors ordinarily lacking in, or unobtainable from, ordinary foods; that they would be efficacious in the treatment of conditions resulting from dietary deficiencies; and that the Min-O-Malt would be efficacious in the treatment or prevention of pellagra and prepellagrous conditions. As a matter of fact, it is not unwise or impractical to rely on ordinary foods to supply the vitamins and minerals needed by the body, as sufficient vitamins and minerals for the needs of the body may be obtained from ordinary foods; it is not necessary or advisable to supplement the diet with additional vitamins in order to insure an excess; 1 pint of either article did not contain all the essential vitamins and minerals contained in the various foods with which comparison was made in the labeling; the articles did not contain nutritional factors ordinarily lacking in, or unobtainable from, ordinary foods; and they would be of inconsequential value in the treatment of conditions resulting from dietary deficiencies. The Min-O-Malt would not be efficacious in the treatment or prevention of pellagra and prepellagrous conditions.

Further misbranding, Section 403 (a), the labeling further implied that decreased energy, low resistance to infection, poor appetite, unhealthy skin, poor digestion, unhealthy teeth, poor bone structure, insufficient red blood cells, failure of normal functioning of body processes, poor health, lack of physical and mental well-being, impaired growth, night blindness, failure of normal intestinal function, various skin and eye infections, nutritional anemias (poor blood), increased nervous tension, and lack of ability to tolerate roughage in the diet, commonly and usually result from lack of vitamins and minerals; and that the user might reasonably expect that the consumption of the articles would



correct these conditions. The conditions referred to do not commonly and usually result from lack of vitamins and minerals, but result from many and varied causes, and the user might not reasonably expect that the consumption of the articles would bring about correction of such conditions, since the products would not ordinarily be effective for such purposes.

Further misbranding, Section 403 (a), the statement, "1 Lb. 6 Oz. Net," borne on the jar labels of both products, was false and misleading since the jars contained less than 1 pound, 6 ounces, net weight.

Misbranding, Section 403 (e), the labels failed to bear an accurate statement of the quantity of the contents.

Misbranding, Section 403 (j), the products were purported to be and were represented as foods for special dietary uses by man by reason of their content of (both products) vitamin A, vitamin B<sub>1</sub>, vitamin B<sub>2</sub>, and niacinamide, (Min-O-Malt) vitamin D, calcium, phosphorus, and iron, and (Vita-Lac) vitamins A and D, calcium, and iron; but their labels failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for those vitamins and minerals for which minimum daily requirements have been established, and which would be supplied by the articles when consumed in a specified quantity during a period of 1 day. In addition, the label of the Min-O-Malt failed to bear a statement of the quantity of niacinamide contained in a specified quantity of the article.

**DISPOSITION:** August 2, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$300 on each count, a total fine of \$900.

**8995. Misbranding of Vitalex Tablets. U. S. v. Edward S. Hidden (Carolina Chemical Co.).** Plea of guilty. Fine, \$500; sentence of 1 year imprisonment suspended and defendant placed on probation for 5 years, conditioned upon payment of fine. (F. D. C. No. 14262. Sample No. 68503-F.)

**INFORMATION FILED:** February 6, 1945, Eastern District of South Carolina, against Edward S. Hidden, trading as the Carolina Chemical Co., Charleston, S. C.

**ALLEGED SHIPMENT:** On or about July 12, 1944, from the State of South Carolina into the State of Ohio.

**PRODUCT:** The Vitalex Tablets were packaged in boxes, each box containing 2 unlabeled envelopes, one envelope containing brown-colored tablets and the other containing light-colored tablets. Analyses showed that the brown-colored tablets contained iron sulfate and that the light-colored tablets contained brewer's yeast.

**LABEL, IN PART:** "Vitalax Vitamins and Iron Tablets."

**NATURE OF CHARGE:** Misbranding, Section 403 (j), the tablets purported to be and were represented as food for special dietary uses by man by reason of their vitamin properties in respect to vitamin B<sub>1</sub>, vitamin G, niacin, and other factors of the vitamin B complex, and by reason of their mineral properties in respect to iron; but their labels did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for vitamin B<sub>1</sub>, vitamin G, and iron, which would be supplied by the tablets when consumed in a specified quantity during a period of 1 day; and their labels also failed to bear a statement of the quantity of niacin and other factors of the vitamin B complex which would be present in a specified quantity of the tablets customarily or usually consumed during a period of 1 day.

Further misbranding, Section 403 (e), the envelopes containing the tablets bore no statement of the name and place of business of the manufacturer, packer, or distributor, or of the quantity of the contents of the envelopes.

The information also alleged that an article known as Lax Thyroid Tablets was misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1555.

**DISPOSITION:** May 18, 1945. A plea of guilty having been entered, the court imposed a fine of \$500, covering both violations, and sentenced the defendant to imprisonment for 1 year. The jail sentence was suspended and the defendant was placed on probation for 5 years, conditioned upon the payment of the fine.



**8996. Misbranding of Vitest Vitamins and Minerals. U. S. v. 78 Packages of Vitamins and Minerals. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 15298. Sample No. 6102-H.)**

**LIBEL FILED:** February 24, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 10, 1944, by the Trudy Laboratories, from New York, N. Y.

**PRODUCT:** 78 packages of vitamins and minerals at Jersey City, N. J. The package consisted of a double layer of mineral wafers separated by a cardboard tray containing 30 vitamin capsules in the center of the package. The double layer occupied the upper half of the package. An inverted tray upon which the wafers and capsules rested occupied the bottom half of the package. The space between the bottom of the box and the top of the tray was empty.

**LABEL, IN PART:** "Vitest Vitamins and Minerals \* \* \* Distributed by Silver Rod Stores, Jersey City, N. J."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container was so filled as to be misleading since one-half of the volume of the package was occupied by a false bottom.

**DISPOSITION:** April 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution after the destruction of the labels under the supervision of the Food and Drug Administration.

**8997. Adulteration of vitamin B complex. U. S. v. 31,950 Vitamin B Complex Capsules. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15418. Sample No. 18522-H.)**

**LIBEL FILED:** February 24, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about October 20, 1944, by the National Drug Laboratories, Inc., from Chicago, Ill.

**PRODUCT:** 31,950 vitamin B complex capsules in unlabeled bottles, each bottle containing 50, 100, 250, or 1,000 capsules, at Minneapolis, Minn. Examination showed that the article was 84 percent deficient in niacinamide. The article had been shipped unlabeled except for the name "Pro Bex" on the shipping cartons. It was represented on the invoice as "Probex B-Complex \* \* \* Formula \* \* \* Niacinamide 5.0 milligrams."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, niacinamide, had been in whole or in part omitted from the article.

**DISPOSITION:** May 11, 1945. The Minnesota Drug Products, Inc., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**8998. Adulteration of vitamin capsules. U. S. v. 69 Bottles of Vitamin Capsules. Default decree of condemnation and destruction. (F. D. C. No. 15321. Sample No. 713-H.)**

**LIBEL FILED:** February 28, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 29, 1944, by the Hart Drug Corporation, from Miami, Fla.

**PRODUCT:** 69 bottles, each containing 100 capsules, of vitamins at Atlanta, Ga. Examination showed that the product was 25 percent deficient in vitamin C.

**LABEL, IN PART:** "Decalbex \* \* \* Capsules Calcium Phosphate and Iron with Vitamins."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin C, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statements, "Eight Capsules Represent \* \* \* Ascorbic Acid (Vitamin C) 30 mg. \* \* \* Two capsules four times daily will supply the minimum daily requirements for an adult of \* \* \* ascorbic acid \* \* \* Each capsule contains \* \* \* Ascorbic Acid (Vitamin C—75 U. S. P. units) 3.75 mg.," were false and misleading since the article did not contain the stated amount of vitamin C.

**DISPOSITION:** May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**8999. Adulteration and misbranding of Decalbex Capsules. U. S. v. 9 Drums of Decalbex Capsules. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15345. Sample No. 902-H.)

**LIBEL FILED:** March 3, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 18, 1944, by the Standard Pharmacal Co., from Chicago, Ill.

**PRODUCT:** 9 drums containing about 472,800 Decalbex Capsules at Miami, Fla. Examination showed that the article was 28 percent deficient in vitamin C.

**LABEL, IN PART:** "Capsules Decalbex \* \* Capsules Calcium Phosphate and Iron with Vitamins."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin C, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statements, "Eight Capsules Represent \* \* \* Ascorbic Acid (Vitamin C) 30 mg. \* \* \* Two capsules four times daily will supply the minimum daily requirements for an adult of \* \* \* ascorbic acid \* \* \* Each capsule contains \* \* \* Ascorbic Acid (vitamin C—75 U. S. P. units) 3.75 mg.," were false and misleading as applied to an article which did not supply or contain the stated amount of vitamin C.

**DISPOSITION:** April 6, 1945. The Hart Drug Corporation, Miami, Fla., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling in compliance with the law, under the supervision of the Food and Drug Administration.

**9000. Adulteration and misbranding of Monarch Vitamins. U. S. v. 3,453 Bottles of Monarch Vitamins. Default decree of condemnation and destruction.** (F. D. C. No. 13413. Sample No. 54632-F.)

**LIBEL FILED:** September 19, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about May 24, 1944, by the Cerophyl Laboratories, Inc., from Kansas City, Mo.

**PRODUCT:** 3,453 bottles, each containing 225 tablets, of Monarch Vitamins at Chicago, Ill. Examination showed that the product contained not more than 50 milligrams of vitamin C per 10 grams (20 tablets).

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin C, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the following label statements were false and misleading since the article did not contain the declared amounts of vitamin C: "Vitamin Content of Monarch Vitamins per 10 Grams \* \* \* C (Ascorbic Acid) . . 75 mg. (1500 U. S. P. Units) 900 units more than adult minimum daily requirement \* \* \* 2 tablets twice daily (with meals)—(2 grams) \* \* \* supplies at least 25% of the full minimum daily requirements of \* \* \* C." The label statements, "10 Vitamins \* \* \* 11 Natural Minerals \* \* \* Whole 'B' Complex," appearing in large and conspicuous type on the main display panel, were misleading in that the article was not of dietary significance by reason of the 10 vitamins, the 11 minerals, and the whole B complex, since the article would supply nutritionally significant amounts of only 6 vitamins and 1 mineral. Certain statements in the circular entitled "To Users of Monarch Vitamins," enclosed in the retail package containing the article, created the false and misleading impression that the article would be effective in the prevention or correction of poor appetite, nervousness, irritability, colds, and chronic constipation; that it would be a substitute for large quantities of fruits and vegetables as a source of vitamins and minerals; and that it was an ideal supplement such as recommended by the Food and Nutrition Board of the National Research Council.

Further misbranding, Section 403 (f), the information concerning the vitamin, mineral, and other dietary properties of the article, required by Section 403 (j) to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use since the information appeared on the back portion of the label; and, Section 403 (i) (2), the label of the article failed to bear a list of the ingredients by their common or usual names.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1588.

**DISPOSITION:** November 8, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



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tomatoes and tomato products-----	8954-8969
vegetables-----	<sup>9</sup> 8933-8953, 8988
Ginger-----	8990
Grains. <i>See Feeds and grains.</i>	
Grape juice-----	8805
punch-----	8806, 8807
Grits, brewer's-----	8840
Ham, cooked, canned-----	8970
Herring roe-----	<sup>11</sup> 8917
Honey-----	8857
Ice cream and ice cream mix-----	8858
Jams and jellies-----	8927, 8928
Jelly. <i>See Jams and jellies.</i>	
Lemon extract-----	8992
Macaroni and noodle products-----	<sup>12</sup> 8827-8830
MacDonald's, Dr., Vitamized Egg Mash Maker, Dr. MacDonald's Vitamized Chick and Growing Mash Maker, and Dr. MacDonald's Vitamized Me- tabolators For Dairy Cattle, Sheep, Beef Cattle, Calves, and Swine-----	8896
Mackerel, canned-----	8913, 8914
Meat-----	8970, 8971
<i>See also Poultry.</i>	
Meatex Wheat Endosperm-----	8839
Milk, evaporated-----	8882
nonfat solids-----	8883
Milkmalt Co.'s Blend-----	<sup>10</sup> 8894
Min-O-Malt-----	8994
Monarch Vitamins-----	9000
Mushrooms, sautéed, canned-----	8938
Muskrats, frozen-----	8971
Noodles-----	<sup>12</sup> 8827
Nutmeg-----	8986, 8987, 8990
Nuts and nut products-----	8850, 8976-8983
Oleomargarine-----	8885
Peach flow-----	8808
-raspberry filling-----	8929
Peanut(s), butter-----	8977, 8978
candy-covered-----	8976
Peas, canned-----	<sup>9</sup> 8939-8948
Pecan(s)-----	8979
brittle-----	8850
Peppers, chili-----	8991
red-----	8988
Phosphated flour-----	8821, 8822
Pickling spice-----	8991
Popcorn-----	<sup>12</sup> 8831-8836
Potatoes-----	8949, 8950
Poultry-----	<sup>8</sup> 8861, <sup>13</sup> 8972-8975
Pro Bex B-Complex-----	8997
Raisins-----	8924
Raspberry puree-----	8930
-peach filling-----	8929
Rex Wheat Germ Oil-----	8898
Rice-----	8818, 8841
brewer's-----	8842

<sup>7</sup> (8920) Seizure contested. Contains instructions to the jury.

<sup>8</sup> (8861), (8993) Prosecution contested.

<sup>9</sup> (8843), (8886), (8939) Prosecution contested. Contains opinion of the court.

<sup>10</sup> (8894) Permanent injunction issued. Contains findings of fact, conclusions of law, and opinion of the court.

<sup>11</sup> (8887), (8917) Seizure contested. Contains opinion of the court.

<sup>12</sup> (8827), (8831) Permanent injunction issued.

<sup>13</sup> (8972) Prosecution contested. Contains instructions to the jury.



	N. J. No.
Roe-----	<sup>11</sup> 8917
Root beer concentrate-----	8802
Rosefish fillets-----	8903-8906
Royal Crown Cola-----	8809
Rye flour-----	8823
Sage-----	8989
Sardines, canned-----	8915
Sauerkraut-----	8951, 8952
Sausage binder flour-----	8824
Shellfish. <i>See</i> Fish and shellfish.	
Shrimp, frozen-----	8918
Sirup(s)-----	8851-8853
fruit-flavored-----	8803, 8804
Soy flour-----	8825, 8826
Spaghetti-----	<sup>12</sup> 8827-8829
Spices, flavors, and seasoning materials-----	8984-8992
Stabilizer, beverage-----	8801
Sugar-----	8854
ToastTillas-----	8953
Tomato(es), canned-----	8954-8956
catsup-----	8957
juice-----	8958
paste-----	8959, 8960
puree-----	8961-8968
sauce-----	8969
Tuna fish-----	8916
Turbot fillets, frozen-----	8907
Turkeys-----	<sup>8</sup> 8861
Turmeric root-----	8990
Vanilla extract-----	8992
Vegetables. <i>See</i> Fruits and vegetables.	
Vinegar, pear-----	8931
wine-----	8932
Vita-Lac-----	8994
Vitalex Tablets-----	8995
Vitamin preparations and foods for special dietary uses-----	<sup>8</sup> 8993-9000
Vitest Vitamins and Minerals-----	8996
Walnuts-----	8980-8983
Wheat cereal-----	8838
Endosperm-----	8839
germ oil-----	8898
puffed, coated-----	8837
Whiting-----	8908-8912
Yellowtails, fillets-----	8899

## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.
A. D. S. Food Products Co.:	
jelly-----	8928
Ady & Crowe Mercantile Co.:	
blackeye beans-----	8934
Ambrosia Chocolate Co.:	
chocolate coating-----	8856
American Fish Co.:	
frozen whiting-----	8912
Arthur Canneries, Inc.:	
tomato puree-----	8966
Atlantic Coast Fisheries Co.:	
frozen rosefish fillets-----	8905
Atlantic Co.:	
cheese, Cheddar-----	8873
walnuts, shelled-----	8980

<sup>8</sup> (8861), (8993) Prosecution contested.<sup>11</sup> (8887), (8917) Seizure contested. Contains opinion of the court.<sup>12</sup> (8827), (8831) Permanent injunction issued.



N. J. No.

Atlantic Co. Cold Storage:	
Cheddar cheese	8874
Aurora Juices Packing Co.:	
grape juice	8805
Bakery Mart of Newark, Inc.:	
whole eggs	<sup>9</sup> 8886
Ballas Egg Products Co., Inc.:	
frozen whole eggs	8893
Barbero, E.:	
wine vinegar	8932
Beatrice Creamery Co.:	
butter	8858
eggs, frozen	8892
ice cream and ice cream mix	8858
Becker & Bigman:	
sauerkraut	8952
Beebe, A. M., Co., Inc.:	
canned mackerel	8914
Belle Center Creamery & Cheese Co.:	
Cheddar cheese	8875
Better Taste Popcorn Co.:	
popped popcorn	<sup>12</sup> 8831, 8832
Bev Co.:	
sirup	8853
Bonner Packing Co.:	
sliced figs	8923
Booth, F. E., Co.:	
canned sardines	8915
Boothbay Harbor Freezer Co.:	
frozen whiting	8909
Brock Candy Co.:	
candy	8849
Brower & Fuller:	
cane sugar sirup	8851
Bulow, L. C.:	
tomato puree	8964
Burry Biscuit Co.:	
crackers	8812
Calder Creamery Co.:	
nonfat dry milk solids	8883
California Sea Food Co.:	
canned mackerel	8913, 8914
Canada Packers, Ltd.:	
frozen poultry	8974
Carolina Chemical Co. <i>See</i> Hidden, E. S.	
Caroline Poultry Farms:	
poultry	8973
Caruso Products Distributing Corp.:	
canned tomatoes	8954
Cass Clay Cooperative Creamery Assoc.:	
butter	8868
Cerophyl Laboratories, Inc.:	
Monarch Vitamins	9000
Chippewa Canneries:	
canned peas	8942
Church Point Wholesale Grocery Co.:	
lima beans	8935
Citrus Products Co.:	
root beer concentrate	8802
Clapp, Harold H., Inc.:	
canned strained peas	8948
Clinton Pure Butter Co.:	
butter	8860

<sup>9</sup> (8843), (8886), (8939) Prosecution contested. Contains opinion of the court.<sup>12</sup> (8827), (8831) Permanent injunction issued.



Close & Co.:	
candy	8846
Close, Henry E., Inc.:	
frozen whiting	8912
Cloverland Dairy. <i>See Hyest, J. A.</i>	
Cody Creamery Co.:	
butter	8864
Coleman, David, Inc.:	
soy flour	8825
Colorado Brokerage Co. <i>See Levy, Meyer.</i>	
Colorado Potato Growers Exchange:	
potatoes	8950
Columbia Produce Co.:	
frozen whole eggs	8890
Commonwealth Ice & Cold Storage Co.:	
frozen cod fillets	8902
Conestoga Cream & Cheese Mfg. Corp.:	
American Spread	8884
Confections, Inc.:	
coated puffed wheat	8837
Confections of California:	
candy	8848
Consolidated Freight Forwarding Co.:	
canned mackerel	8913
Cosmo Packing Co.:	
sauerkraut	8951
Cressman, H. E.:	
Royal Crown Cola	8809
Crone, E. R.:	
sirup	8852
Crooks Terminal Warehouse:	
rice	8841
Cunningham Spice Co.:	
ground nutmeg	8987
Dairy Products Marketing Assoc.:	
Cheddar cheese	8876
Dauber Bros.:	
butter	8860
Davis, Howard:	
popcorn	<sup>12</sup> 8831
Demartini, L., Co.:	
shelled walnut meats	8983
Dickman, Irving:	
tuna fish	8916
Dickman, I., & Sons. <i>See Dickman, Irving.</i>	
Distribution Terminal Warehouse:	
rosefish fillets	8904
Donig, Martin, Nut Co.:	
walnut meats	8981
Draper & Co., Inc.:	
canned peas	8946
Egg-O-Milk Co.:	
Egg-O-Milk Co.'s Blend	<sup>10</sup> 8894, 8895
Elmira Wholesale Grocery Co.:	
spaghetti	8829
Energy Food Co.:	
Min-O-Malt and Vita-Lac	8994
Escalon Packers, Inc.:	
tomato puree	8968
Eureka Creamery:	
butter	8866

<sup>10</sup> (8894) Permanent injunction issued. Contains findings of fact, conclusions of law, and opinion of the court.

<sup>12</sup> (8827), (8831) Permanent injunction issued.



N. J. No.

Evans Canning Co.:	
canned tomatoes-----	8955
Evans, David G., Coffee Co.:	
spices-----	8991
Faneuil Fisheries, Inc.:	
frozen whiting-----	8910
Farmers Cooperative Creamery Assoc.:	
butter-----	8869
Farmers Cooperative Creamery Co.:	
butter-----	8870
Farmers Service Bureau. <i>See</i> Obrecht, G. F.	
Feeser, A. W., & Co., Inc.:	
canned peas-----	8943
Fernel, Dr. J. P.:	
Essence No. 7, Fernel Nerve and Brain Food, Breasts of Youth Capsules, and Endocrin Rejuvenation Food-----	<sup>8</sup> 8993
Fine Trolley Cookies:	
bakery products-----	8810
Fireproof Storage & Van Co.:	
evaporated milk-----	8882
Fleming, J. H., & Co.:	
crab meat-----	8919
Forbes, Jas. H., Tea & Coffee Co.:	
rubbed sage-----	8989
Forchheimer, M., Flour Co.:	
corn meal-----	8816
Forhan, H. L., Co.:	
canned wax beans-----	8936
Fox, Peter, Sons Co.:	
butter and turkeys-----	<sup>8</sup> 8861
Fox Produce:	
cream-----	8881
Gagnon, Wm. C.:	
butter-----	8870
Garner, T. W., Food Co.:	
blackberry jam-----	8927
General Cold Storage Co.:	
poultry-----	8973
Gentry, C. B., Co.:	
chili powder-----	8984, 8985
Gerard Milk Products Co. <i>See</i> Obrecht, G. F.	
Gertz Distributing Co.:	
popcorn-----	8836
Gioia, H. A.:	
dried whole eggs-----	8888
Globe Laboratories:	
Rex Wheat Germ Oil-----	8898
Glorioso, Angelo:	
tomato paste-----	8960
Gold Coin Creamery Co.:	
butter and cottage cheese-----	8859
Gomperts, Jack, & Co.:	
apple chops-----	<sup>7</sup> 8920
Gorton-Pew Co., Ltd.:	
frozen cod fillets-----	8901
Gorton-Pew Fisheries Co., Ltd.:	
frozen rosefish fillets-----	8906
Graziano, J. P., Grocery Co.:	
corn meal-----	8817
Greenbaum, Samuel:	
whole eggs-----	<sup>9</sup> 8886

<sup>7</sup> (8920) Seizure contested. Contains instructions to the jury.<sup>8</sup> (8861), (8993) Prosecution contested.<sup>9</sup> (8843), (8886), (8939) Prosecution contested. Contains opinion of the court.



Gulley Grocery Co.:	
corn meal and rice-----	8818
H & P Co.:	
grape juice punch-----	8806
Hammack, C. L.:	
canned tomatoes-----	8956
Hancock-Nelson Mercantile Co.:	
canned peas-----	8942
Hantover, Phil, Inc.:	
chili powder-----	8985
Harp, O. G.:	
butter and turkeys-----	<sup>8</sup> 8861
Harp, O. G., Poultry & Egg Co. <i>See</i> Harp, O. G.	
Hart Drug Co.:	
vitamin capsules-----	8998
Haxton, Geo. W., & Son:	
frozen red currants-----	8926
Heck Specialty Co.:	
popcorn-----	8833
Hedison Bros. Confectionery Co.:	
candy-----	8844
Henlopen Poultry Co.:	
poultry-----	8973
Hidden, E. S.:	
Vitalex Tablets-----	8995
Holler's Concentrated Beverages:	
beverage bases-----	8804
Hood Mills Co. <i>See</i> Obrecht, G. F.	
Hulman & Co.:	
apple butter-----	8925
Hurst & Sons:	
frozen whole eggs-----	8892
Hyst, J. A.:	
butter-----	8865
Independent Biscuit Co.:	
bakery products-----	8810
Indiana Macaroni Co.:	
spaghetti, macaroni, and noodle products-----	<sup>12</sup> 8827
Jaeger, F., Milling Co.:	
rye flour-----	8823
Jenkins, P. H.:	
corn meal-----	8813
Jenkins Mill. <i>See</i> Jenkins, P. H.	
Johnson Biscuit Co.:	
bakery products-----	8810
Kennepohl, B. G.:	
candy-----	<sup>9</sup> 8843
King Packing Co.:	
tomato juice-----	8958
Kinney Wholesale Co.:	
beans-----	8933
Krause, C. A., Milling Co.:	
corn meal-----	8814
Krause, Chas. A., Milling Co.:	
corn meal-----	8815
Kroger Grocery & Baking Co.:	
frozen whiting-----	<sup>8</sup> 8910
Kurdle, T. J. <i>See</i> Schluderberg, Wm.—Kurdle, T. J., Co.	
Lakeshire-Marty Co.:	
cheese spread-----	8879
Lakeside Packing Co.:	
canned peas-----	8941

<sup>8</sup> (8861), (8993) Prosecution contested.<sup>9</sup> (8843), (8886), (8939) Prosecution contested. Contains opinion of the court.<sup>12</sup> (8827), (8831) Permanent injunction issued.



N. J. No.

Laning, Wm., & Son Co.:	
tomato puree-----	8963
Larrowe Buckwheat Flour Corp.:	
flour-----	8819
Lecroy, John, & Son:	
vanilla extract, lemon extract, and celery seed-----	8992
Leggett, Francis H., & Co.:	
canned herring roe-----	<sup>11</sup> 8917
Leonard Bros., Ltd.:	
frozen cod fillets-----	8900
Levy, Meyer:	
canned peas-----	8940
Licorice Products Co.:	
licorice candy-----	8847
Little America Finer Frosted Foods Co.:	
frozen rosefish fillets-----	8906
Lord-Mott Co., Inc.:	
canned peas-----	<sup>9</sup> 8939
Lucerne Potato Growers Cooperative Assoc.:	
potatoes-----	8950
MacDonald, J. R.:	
Dr. MacDonald's Vitamized Egg Mash Maker, Vitamized Chick and Growing Mash Maker, and Vitamized Metabolators For Dairy Cattle, Sheep, Beef Cattle, Calves, and Swine-----	8896
McGowen Products Co.:	
honey-----	8857
Maple Valley Creamery:	
butter-----	8871
Marion Creamery & Poultry Co.:	
frozen whole eggs-----	8890
Marwyn Dairy Products Corp.:	
butter-----	8867
Mayfield Co.:	
phosphated flour-----	8821
Meadow Gold Dairies. <i>See</i> Beatrice Creamery Co.	
Mello-Sweets, Inc.:	
candy-----	8845
Mel-Williams Co.:	
tomato puree-----	8961
Meredith Fish Co.:	
frozen turbot fillets-----	8907
Metropolitan Pool Car Associates:	
canned cooked ham-----	8970
Metropolitan Pool Car Assoc.:	
nutmegs-----	8986
Miami Margarine Co.:	
oleomargarine-----	8885
Michigan Elevator Exchange:	
beans-----	8933
Mid-Central Fish Co. of Portland, Maine:	
frozen whiting-----	8909
Milkmalt Co. <i>See</i> Obrecht, G. F.:	
Miller Cereal Co.:	
sausage binder flour-----	8824
Mineral Point Cooperative Packers:	
canned peas-----	8944
Mitchell, John S., Inc.:	
tomato puree-----	8965
Monroe Bonded Warehouse:	
phosphated flour-----	8822
Mortenson, John B., & Co.:	
shelled popcorn-----	8834

<sup>9</sup> (8843), (8886), (8939) Prosecution contested. Contains opinion of the court.<sup>11</sup> (8887), (8917) Seizure contested. Contains opinion of the court.



Naddeo, Wilhelmina:	
spaghetti, macaroni, and noodle products	<sup>12</sup> 8827
Nardone, Joseph:	
frozen red currants	8926
Nash-Finch:	
crackers	8810
National Butter Co.:	
butter	8866, 8872
National Drug Laboratories, Inc.:	
vitamin B complex	8997
National Frosted Foods Sales Corp.:	
frozen fish fillets	8899
Nebraska Consolidated Mills Co.:	
wheat cereal	8838
Nehi Beverage (Nevada) Co. <i>See</i> Cressman, H. E.	
Nelson Brokerage Co.:	
Meatex Wheat Endosperm	8839
New England Stores Service Corp.:	
canned wax beans	8936
North Ontario Dried Fruit Co.:	
dates	8922
Obrecht, G. F.:	
Egg-O-Milk Co.'s Blend and Milkmaid Co.'s Blend	<sup>10</sup> 8894
Obrecht, P. Fred'k. & Son. <i>See</i> Obrecht, G. F.:	
Obrecht Sales Co. <i>See</i> Obrecht, G. F.:	
Occident Elevator Co.:	
beans	8933
O'Hara, F. J., & Sons, Inc.:	
rosefish fillets	8903, 8904
Ol' South Extract Co.:	
beverage bases	8803
O'Rourke, Elmo:	
alfalfa meal	8897
Orr, Robert, & Co.	
tomato juice	8958
Osborne, Bryce:	
potatoes	8949
Overland Terminal Warehouse:	
soy flour	8826
Pacific Coast Warehouse:	
brewers grits	8840
Pan Confection Factory:	
sugar	8854
Parrott & Co.:	
canned mackerel	8913
Peloian Packing Co.:	
raisins	8924
Perfetti, Menatti:	
spaghetti, macaroni, and noodle products	<sup>12</sup> 8827
Perkins, D. A., Co.:	
grape juice punch	8807
Perkins, D. A., Inc.:	
grape juice punch	8806
Perrymead Products Co.:	
pear vinegar	8931
Petry, P. H., Co.:	
spices	8990
Pickerington Creamery, Inc.:	
butter	8863
Prince, Lucien, & Co.:	
crab meat	8919

<sup>10</sup> (8894) Permanent injunction issued. Contains findings of fact, conclusions of law, and opinion of the court.

<sup>12</sup> (8827), (8831) Permanent injunction issued.



N. J. No.

Producers Service Corp.:	
black raspberry puree	8930
Pure Foods Corp.:	
peach flow	8808
Raffety & O'Rourke. <i>See</i> O'Rourke, Elmo.	
Reedville Oil & Guano Co.:	
canned herring roe	<sup>11</sup> 8917
Reliable Nut Co.:	
candy-covered peanuts	8976
Rezzolla, J. R., Sr.:	
spaghetti, macaroni, and noodle products	<sup>12</sup> 8827
Rockwood & Co.:	
cake chocolate	8855
Rosenberg Bros. & Co.:	
evaporated apples	8921
Rosenberg, Morris, Co.:	
peanut butter	8978
pecans, cracked	8979
popcorn	8835
Roth Trading Co.:	
frozen whole eggs	8891
Royal Dutch Products Corp.:	
canned sautéed mushrooms	8938
Sardik Food Products Co.:	
tomato puree	8963
Schluderberg, Wm.-Kurdle, T. J., Co.:	
canned cooked ham	8970
Scott, Thomas, & Co., Inc.:	
red peppers	8988
Seattle Fish Co.:	
frozen cod fillets	8900
Sethness, C. O. & W. D., Co.:	
Esterex	8801
Shreveport Macaroni Mfg. Co.:	
macaroni	8830
Silver Rod Stores:	
Vitest Vitamins and Minerals	8996
Sisk, A. W., & Son:	
tomato puree	8964
Sorensen, D. D.:	
butter	8862
Sorensen Creameries. <i>See</i> Sorensen, D. D.	
Southern United Ice Co.:	
frozen muskrats	8971
Southgate Brokerage Co., Inc.:	
canned tomatoes	8956
Southgate Foods:	
peanut butter	8977
Stack & Carew, Inc.:	
raspberry-peach filling	8929
Standard Fish Co.:	
frozen whiting	8911
Standard Pharmacal Co.:	
Decalbex Capsules	8999
Star Fish Co.:	
frozen cod fillets	8902
Sterling Canning Co.:	
canned corn	8937
Stockley Poultry Co.:	
poultry	8973
Stonehill Creamery:	
butter	8871

<sup>11</sup> (8887), (8917) Seizure contested. Contains opinion of the court.<sup>12</sup> (8827), (8831) Permanent injunction issued.



	N. J. No.
Strickler, L. M.:	
cream -----	8880
Strickler Produce. <i>See</i> Strickler, L. M.	
Stuckey's:	
pecan brittle -----	8850
Sun Garden Packing Co.:	
tomato paste -----	8959
Sunset Nut Shelling Co.:	
shelled walnut meats -----	8982
Superior Biscuit Co.:	
cookies -----	8811
Superior Packing Co.:	
grape juice -----	8805
Swift & Co.:	
cheese, Cheddar -----	8878
eggs, frozen -----	8889, 8893
Swift Canadian Co.:	
frozen poultry -----	8975
Taormina Corp.:	
tomato puree -----	8962
Thomas, George H., Inc.:	
frozen whiting fillets -----	8908
Toastilla Co.:	
Toastillas -----	8953
Triangle Candy Co.:	
candy -----	<sup>9</sup> 8843
Tri-State Milling Co.:	
flour -----	8820
Trudy Laboratories:	
Vitest Vitamins and Minerals -----	8996
Uddo & Taormina Co.:	
tomato paste -----	8960
Valley Canning Co.:	
tomato puree -----	8961
Van Lill, S. J., Co.:	
tomato catsup -----	8957
Viobin Corp.:	
Rex Wheat Germ Oil -----	8898
Vitamized Feed Co. <i>See</i> MacDonald, J. R.	
Viviano, Peter and Sam:	
macaroni and spaghetti -----	8828
Viviano Bros. Macaroni Co. <i>See</i> Viviano, Peter and Sam.	
Vivison Macaroni Co.:	
macaroni and spaghetti -----	8828
Wagner, H. M., & Co., Inc.:	
canned peas -----	<sup>9</sup> 8939
Waldbaum, S. & W., Inc.:	
butter -----	8869
Walrath, E. H., & Sons:	
beans -----	8933
Walton Rice Mill, Inc.:	
brewer's rice -----	8842
Wells, W. M., & Sons:	
frozen shrimp -----	8918
Western California Cannery, Inc.:	
tomato sauce -----	8969
White & Sloat Canning Co.:	
tomato puree -----	8967
Whitewater Canning Co.:	
canned peas -----	8945

<sup>9</sup> (8843), (8886), (8939) Prosecution contested. Contains opinion of the court.

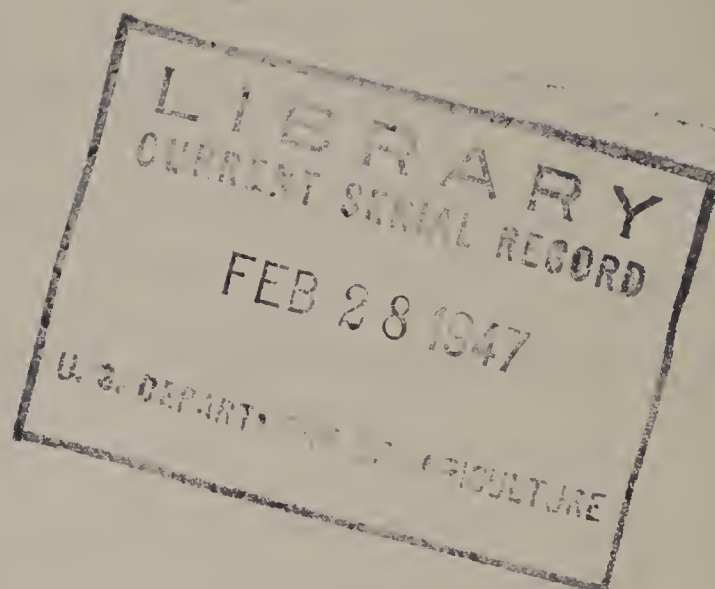


	N. J. No.
Wilson & Co. :	
dressed poultry-----	<sup>13</sup> 8972
Wisconsin Dried Egg Co. :	
dried whole eggs-----	<sup>11</sup> 8887
Woods Cross Canning Co. :	
canned peas-----	8947
Wuethrich Brothers :	
Cheddar cheese-----	8877

<sup>11</sup> (8887), (8917) Seizure contested. Contains opinion of the court.  
<sup>13</sup> (8972) Prosecution contested. Contains instructions to the jury.

Errata : In F. N. J. No. 6062, change Sample No. 58075-*F* to 58705-*F*.







FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,  
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

9001-9200

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., November 19, 1946.

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BEVERAGES AND BEVERAGE MATERIALS\*

**9001. Adulteration of beer and ale. U. S. v. 1,674 Cases of Beer (and 6 other seizure actions against beer and ale). Consent decrees of condemnation. Product ordered released under bond for salvage of containers and destruction of contents. (F. D. C. Nos. 14053, 14064, 14076 to 14080, incl. Sample Nos. 63587-F to 63593-F, incl.)**

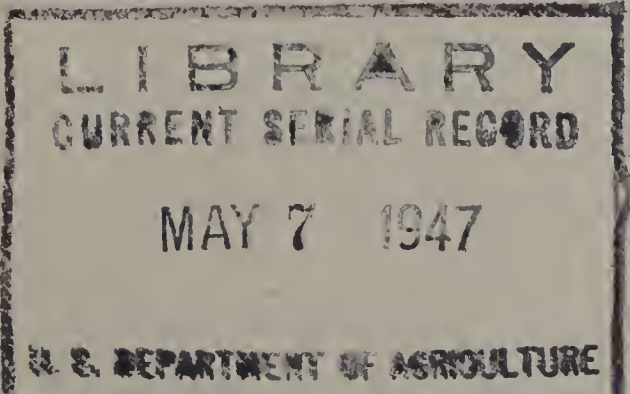
**LIBELS FILED:** Between October 16 and November 13, 1944, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** Between the approximate dates of September 2 and 19, 1944, by the Commonwealth Brewing Corp., from Springfield, Mass.

**PRODUCT:** Beer and ale. 2,112 cases at Conway, S. C., 1,298 cases at Sumter, S. C., 675 cases at Little Rock, S. C., 650 cases at Kingstree, S. C., and 2,098 cases at Florence, S. C.

**LABEL, IN PART:** "Gold Medal Tivoli Beer [or "Worcester Stock Ale," "Oxford Brand Ale," "Oxford Brand Beer," "Bay State Beer," or "New England Ale"]."

\*See also No. 9138.





**NATURE OF CHARGE:** Adulteration, Section 402(a)(2), the product contained an added poisonous or deleterious substance, fluorine, which was unsafe within the meaning of the law since it was a substance which was not required in the production of the product and which could have been avoided by good manufacturing practice.

**DISPOSITION:** April 30 and May 9, 1945. The Schafer Distributing Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond, conditioned upon the destruction of the beer and ale and the salvage of the bottles and cases.

**9002. Misbranding of Effect-O (beverage stabilizer). U. S. v. 17 Bottles and 8 Jars of Effect-O. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15932, 16021. Sample Nos. 22034-H, 22465-H.)

**LIBELS FILED:** April 21 and May 10, 1945, Eastern District of Missouri and Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about November 13, 1944, and March 12, 1945, by the Chandler Laboratories, from Philadelphia, Pa.

**PRODUCT:** 17 1-gallon bottles of Effect-O at St. Louis, Mo., and 8 1-gallon jars of Effect-O at Springfield, Ill. Analysis showed that the product was a water solution containing about 14 grams of monochloroacetic acid per 100 cc.

**LABEL, IN PART:** "Effect-O \* \* \* The Perfect Stabilizer for all Beverages."

**NATURE OF CHARGE:** Misbranding, Section 403(a), the labeling was misleading in that the label statements, "The Perfect Stabilizer for all Beverages Eliminates the Use of Preservatives Use  $\frac{1}{2}$  Oz. to each Gallon of Bottling Syrup," created the impression that the article was wholesome and suitable for use as a component of all beverages used by man; and the labeling failed to reveal the material fact that monochloroacetic acid is a poisonous and deleterious substance which rendered the article itself poisonous, deleterious, unwholesome, and unsuitable for use as a component of beverages for human consumption.

**DISPOSITION:** May 18 and June 5, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9003. Misbranding of Effect-O. U. S. v. 5 Bottles of Effect-O. Default decree of condemnation and destruction.** (F. D. C. No. 16019. Sample No. 28821-H.)

**LIBEL FILED:** June 14, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about February 17, 1945, by the Anchor Storage Co., from Proviso, Ill.

**PRODUCT:** 5 1-gallon bottles of Effect-O at Seattle, Wash. Analysis showed that the product was a water solution containing about 13 percent of monochloroacetic acid.

**LABEL, IN PART:** "Effect-O \* \* \* The Perfect Stabilizer for all Beverages" \* \* \* Chandler Laboratories, Philadelphia, Pa."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label was misleading in that the statements, "The Perfect Stabilizer For All Beverages Eliminates the Use of Preservatives Use  $\frac{1}{2}$  oz. to each Gallon of Bottling Syrup," created the impression that the article was wholesome and suitable for use as a component of all beverages used by man; and the labeling failed to reveal the material fact that monochloroacetic acid is a poisonous and deleterious substance which rendered the article unwholesome and unsuitable for use as a component of beverages used by man.

**DISPOSITION:** March 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9004. Misbranding of coffee. U. S. v. Sam Kobrick (Kobrick's). Plea of guilty. Fine, \$100.** (F. D. C. No. 10554. Sample Nos. 44512-F, 44515-F.)

**INFORMATION FILED:** January 17, 1946, Southern District of New York, against Sam Kobrick, trading as Kobrick's, at New York, N. Y.

**ALLEGED SHIPMENT:** On or about March 13 and 23, 1943, from the State of New York into the State of New Jersey.

**PRODUCT:** This product was ground coffee containing in one shipment an estimated 5 to 10 percent of cereal, probably wheat, and in the other shipment an estimated 5 percent of a cereal and an estimated 5 percent of chicory.

**NATURE OF CHARGE:** Misbranding, Section 403(e) (1), the article did not bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403(e) (2), the article did not bear a label containing a statement of the quantity of the contents; and, Section 403(i) (2), the label of the article failed to bear the common or usual name of each ingredient.

**DISPOSITION:** February 5, 1946. A plea of guilty having been entered, the court imposed a fine of \$50 on each of 2 counts.

**9005. Adulteration of grapefruit juice. U. S. v. 2,719 Cases of Grapefruit Juice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15992. Sample Nos. 18238-H, 18239-H.)**

**LIBEL FILED:** May 9, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** March 18 and 20, 1945, by the Christensen Products Co., from Weslaco, Tex.

**PRODUCT:** Unsweetened grapefruit juice. 1,323 cases, each containing 12 1-quart, 14-ounce cans, and 1,396 cases, each containing 6 3-quart cans, at St. Paul, Minn.

**LABEL, IN PART:** "Home Brand \* \* \* Unsweetened Grapefruit Juice."

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots, fly eggs, and fly fragments; and, Section 402(a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 17, 1945. Griggs, Cooper and Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the segregation and salvage of the good portion, under the supervision of the Federal Security Agency.

**9006. Adulteration and misbranding of grape sugar. U. S. v. 350 Packages of Grape Sugar. Default decree of condemnation and destruction. (F. D. C. No. 15758. Sample No. 607-H.)**

**LIBEL FILED:** March 30, 1945, Western District of South Carolina; amended libel filed May 7, 1945.

**ALLEGED SHIPMENT:** On or about June 22, 1944, by Grapesugar, Ltd., from Burbank, Calif.

**PRODUCT:** 350 ¼-pound packages of grape sugar, at Greenville, S. C.

**LABEL, IN PART:** "Grapesugar [design of fruits] \* \* \* This package will ferment, color and flavor two gallons of fresh fruit juice, dried fruit juice or other sweet liquids. The result is a beverage of 12 to 14 percent alcoholic content with a sparkling clear wine color and excellent flavor. Port (Sherry, Sauterne or Burgundy) Imitation Flavor."

**NATURE OF CHARGE:** Adulteration, Section 402(b) (2), artificially colored and flavored corn meal, containing small amounts of dextrose and yeast, had been substituted in whole or in part for grape sugar flavored with various wine flavors.

Misbranding, Section 403(a), the design of fruits and the name "Grapesugar Port (Sherry, Sauterne or Burgundy)" were false and misleading as applied to artificially colored and flavored corn meal containing small amounts of dextrose and yeast.

**DISPOSITION:** June 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9007. Adulteration of orange-flavored sirup. U. S. v. Orange Products Corporation. Plea of guilty. Fine, \$500 and costs. (F. D. C. No. 12526. Sample No. 48661-F.)**

**INFORMATION FILED:** June 13, 1945, Northern District of Illinois, against the Orange Products Corporation, Chicago, Ill.



**ALLEGED SHIPMENT:** On or about August 23, 1943, from the State of Illinois into the State of Ohio.

**LABEL, IN PART:** (Jugs) "California Valencia \* \* \* Imitation Orange Flavored Syrup." A number of unaffixed labels were shipped with the article.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially colored mixture of sugar, orange pomace, phosphoric acid or acid phosphate, orange peel oil, pectin, glycerin, and orange juice, preserved with sodium benzoate and containing a negligible proportion of vitamin C, had been substituted for concentrated orange juice; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color, sugar, orange pomace, phosphoric acid or acid phosphate, orange peel oil, pectin, glycerin, and water, which substances had been added to the article so as to make it appear to be concentrated orange juice.

Misbranding, Section 403 (a), the following label statements and designs were false and misleading: (Cases) "Sweet Orange"; (jugs) "California Valencia \* \* \* Orange Flavored Syrup Contains Orange Juice, Dehydrated Orange Juice \* \* \* Orange Products Corporation"; (unaffixed labels) "A Fresh Fruit Food Product California Valencia Orange Drink [design of a whole orange and a cut orange dripping juice into a glass containing orange juice]." Further misbranding, Section 403 (c), the article was an imitation of concentrated orange juice, and the labels on the jugs failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (i) (2), the article failed to bear the common or usual name of each ingredient since it contained orange pomace and phosphoric acid or acid phosphate, which ingredients were not listed in the statement of ingredients borne on the label.

**DISPOSITION:** December 3, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 and costs.

**9008. Misbranding of papaya fruit drink. U. S. v. 99 Cases and 105 Cases of Papaya Fruit Drink. Default decrees of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. Nos. 16390, 16391. Sample Nos. 10491-H, 10492-H.)

**LIBELS FILED:** June 4 and July 4, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of October 12 and December 7, 1944, by the Pan American Food Products Co., Chicago, Ill.

**PRODUCT:** 204 cases, each containing 12 1-quart bottles, of papaya fruit drink at Pittsburgh, Pa.

**LABEL, IN PART:** "Pan American Brand Papaya Fruit Drink."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Papaya Fruit Drink" was false and misleading as applied to an artificially flavored and colored acidulated and sweetened beverage containing an insignificant amount of papaya or other fruit juice; Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient of the article since water and the specific acid were not declared; and, Section 403 (k), the article contained artificial coloring and flavoring and a chemical preservative, and it failed to bear a label stating that fact.

**DISPOSITION:** July 10, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to a charitable institution.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS\*

**9009. Adulteration of bakery products. U. S. v. Athens Baking Co. Plea of guilty. Fine, \$500.** (F. D. C. No. 15554. Sample Nos. 92808-F, 92809-F, 92838-F, 92839-F.)

**INFORMATION FILED:** July 24, 1945, District of Columbia, against the Athens Baking Co., a partnership, Washington, D. C. It was charged that the defend-

\*See also No. 9031.

ant, on or about August 14 and 15 and October 31, 1944, manufactured within the District of Columbia quantities of bread and rolls that were adulterated; and that, on or about August 15, 1944, the defendant introduced into the commerce of the District of Columbia a quantity of rolls similarly adulterated.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of larva head capsules, insect fragments, mites, an adult insect, rodent hair fragments, hair fragments resembling rodent hair fragments, and a feather fragment; and Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** August 31, 1945. A plea of guilty having been entered, the defendant was fined \$500.

**9010. Misbranding of enriched bread. U. S. v. Gottfried Baking Co. Plea of guilty. Imposition of sentence suspended. (F. D. C. No. 15582. Sample Nos. 76553-F, 77515-F.)**

**INFORMATION FILED:** February 6, 1946, Southern District of New York, against the Gottfried Baking Co., a corporation, New York, N. Y.

**ALLEGED SHIPMENT:** On or about May 1 and August 8, 1944, from the State of New York into the State of New Jersey.

**PRODUCT:** Analyses showed that the bread involved in one shipment contained not more than 0.34 milligram of riboflavin per pound, and that in the other shipment the bread contained not more than 0.81 milligram of vitamin B<sub>1</sub> and not more than 0.44 milligram of riboflavin per pound.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Enriched Bread" was false and misleading since it represented that the article contained the amounts of vitamin B<sub>1</sub> and riboflavin that are contained in bread made from enriched flour. The article in both shipments contained less riboflavin (vitamin B<sub>2</sub>), and that in one of the shipments also contained less thiamine (vitamin B<sub>1</sub>), than is contained in bread made from enriched flour, which bread should contain not less than 0.7 milligram of riboflavin and not less than 1.1 milligrams of thiamine per pound.

Further misbranding, Section 403 (a), the statements, "One half pound (about 8 slices) of this bread supplies you with at least the following amounts or percentages of your minimum daily requirements for these essential food substances: Thiamine (Vitamin B-1) 55% ; Riboflavin (Vitamin B-2) 17.5%," were false and misleading since the product in one shipment would supply not more than 8.5 percent of the minimum daily requirement for riboflavin, and the product in the other shipment would supply not more than 40.5 percent of the minimum daily requirement for thiamine and not more than 11 percent of the minimum daily requirement for riboflavin.

**DISPOSITION:** March 4, 1946. The defendant, having entered a plea of guilty, was given a suspended sentence.

**9011. Adulteration of pecan rolls. U. S. v. Ernest Vasiliou (Supreme Bakery). Plea of guilty. Fine, \$750. (F. D. C. No. 15559. Sample No. 75963-F.)**

**INFORMATION FILED:** October 16, 1945, Northern District of West Virginia, against Ernest Vasiliou, an individual trading as the Supreme Bakery at Wheeling, W. Va.

**ALLEGED SHIPMENT:** On or about November 14, 1944, from the State of West Virginia into the State of Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and hair resembling rodent hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 26, 1945. A plea of guilty having been entered, the defendant was fined \$750.



**9012. Adulteration of cake. U. S. v. New Standard Baking Co. and Jacob Roseman. Pleas of nolo contendere. Corporate defendant fined \$2,000; individual defendant given 6 months' suspended sentence and placed on probation for 1 year. (F. D. C. No. 15583. Sample Nos. 85153-F, 85155-F to 85157-F, incl.)**

**INFORMATION FILED:** November 27, 1945, Eastern District of Pennsylvania, against the New Standard Baking Co., a corporation, Philadelphia, Pa., and Jacob Roseman, president of the corporation.

**ALLEGED SHIPMENT:** On or about September 28 and October 12, 1944, from the State of Pennsylvania into the State of New Jersey.

**LABEL, IN PART:** "Lady Fair Fruit Cake," "Betacake Best Quality Cakes," or "Lady Fair \* \* \* Orange [or "Cream"] Layer Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of larvae, head capsules, insect fragments, rodent hair fragments, a feather fragment, and flies; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 22, 1946. Pleas of nolo contendere having been entered on behalf of the defendants, the corporate defendant was sentenced to pay a fine of \$2,000. The individual defendant received a suspended sentence of 6 months' imprisonment and was placed on probation for a period of 1 year.

**9013. Adulteration of cookies. U. S. v. Nutt Brothers Cookies. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 15592. Sample No. 73892-F.)**

**INFORMATION FILED:** August 27, 1945, Southern District of California, against Nutt Brothers Cookies, a partnership, Los Angeles, Calif.; amended information filed December 11, 1945.

**ALLEGED SHIPMENT:** On or about November 8, 1944, from the State of California into the State of Arizona.

**LABEL, IN PART:** "Nutt Bros. Big Buy Cookies \* \* \* Sugar Cookies."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, a hair fragment resembling rodent hair, and an unidentified hair.

**DISPOSITION:** December 11, 1945. A plea of nolo contendere having been entered, the defendant was fined \$150.

**9014. Adulteration and misbranding of pies. U. S. v. The Blue Bird Pie Co. Plea of guilty. Fine, \$500. (F. D. C. No. 10536. Sample Nos. 42122-F, 42123-F, 42125-F.)**

**INFORMATION FILED:** September 8, 1943, Southern District of Ohio, against the Blue Bird Pie Co., a corporation, Cincinnati, Ohio.

**ALLEGED SHIPMENT:** On or about April 9, 1943, from the State of Ohio into the State of Kentucky.

**PRODUCT:** Various kinds of pies, some contained in cartons, some contained in cellophane envelopes or wrappers, and some contained in paper bags. Portions of the pies contained in the cartons and envelopes were short of the declared weight of "16 Ozs." or "4 Ounces," respectively. The bags and wrappers bore no statement of the quantity of the contents.

**LABEL, IN PART:** (Cartons) "Blue Bird Pies"; (envelopes and wrappers) "Blue [design of a bird] Pies." The paper bags bore the letter "T" or "C" and no other labeling.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments and hairs resembling rodent hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), the label statements "Net Weight 16 Ozs." and "4 Ounces," on portions of the products, were false and misleading since those portions weighed less than so labeled; Section 403 (e) (1), certain por-

tions of the articles failed to bear labels containing the name, and (in the case of the product in the bags) the place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), the labels of portions of the article did not bear an accurate statement of the quantity of the contents since, in some instances, the labels bore no such statement and, in other instances, it was incorrect; and, Section 403 (i) (2), the label of the portion contained in the bags failed to bear the common or usual name of each ingredient.

**DISPOSITION:** June 15, 1944. A plea of guilty having been entered on behalf of the defendant, the court imposed fines totaling \$600.

**9015. Adulteration of pecan pies. U. S. v. 95 Cartons of Pecan Pies. Default decree of forfeiture and destruction.** (F. D. C. No. 15938. Sample No. 13573-H.)

**LIBEL FILED:** April 28, 1945, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about March 20, 1945, by the Dallas Cookie Co., from Dallas, Tex.

**PRODUCT:** 95 cartons, each containing 12 2-ounce pecan pies, at Bloomington, Ind. Examination showed that the article was moldy, and that it contained rodent hair fragments.

**LABEL, IN PART:** "Marvin's Delicious Pecan Feast."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 6, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

#### CORN MEAL\*

**9016. Adulteration of corn meal. U. S. v. Davis B. Spiers (Chowan Milling Co.). Plea of nolo contendere. Fine, \$50.** (F. D. C. No. 15487. Sample No. 79686-F.)

**INFORMATION FILED:** June 4, 1945, Eastern District of North Carolina, against Davis B. Spiers, an individual trading as the Chowan Milling Co., at Como, N. C.

**ALLEGED SHIPMENT:** On or about September 29, 1944, from the State of North Carolina into the State of Virginia.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of adult storage insects, storage insect fragments, larva head capsules, larva cast skin, rodent excreta pellet fragments, rodent hair fragments, and hair fragments resembling rodent hairs.

**DISPOSITION:** September 24, 1945. A plea of nolo contendere having been entered, the defendant was fined \$50.

**9017. Adulteration of corn meal. U. S. v. Edward Jones (Dry Fork Milling Co.). Plea of guilty. Fine, \$25.** (F. D. C. No. 8768. Sample No. 25223-F.)

**INFORMATION FILED:** January 11, 1943, Western District of Virginia, against Edward Jones, trading as the Dry Fork Milling Co. at Dry Fork, Va.

**ALLEGED SHIPMENT:** On or about September 5, 1942, from the State of Virginia into the State of North Carolina.

**LABEL, IN PART:** "White Oak Mountain \* \* \* Bolted Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellet fragments, rodent hair fragments, insect larvae, larva heads, and miscellaneous insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 7, 1943. A plea of guilty having been entered, the court imposed a fine of \$25.

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\*See also Nos. 9020-9022.



**9018. Adulteration of corn meal. U. S. v. 20 Bags of Corn Meal. Default decree of condemnation and destruction.** (F. D. C. No. 15813. Sample No. 4450-H.)

**LIBEL FIELD:** April 11, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 8, 1943, by the New Ulm Roller Mill Co., from New Ulm, Minn.

**PRODUCT:** 20 100-pound bags of corn meal at Philadelphia, Pa.

**LABEL, IN PART:** "Schneider & Lutz Yellow Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and webbing.

**DISPOSITION:** May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9019. Adulteration of corn meal. U. S. v. 17 Bags of Corn Meal. Default decree of condemnation and destruction.** (F. D. C. No. 16365. Sample No. 1008-H.)

**LIBEL FILED:** On or about June 18, 1945, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about May 2, 1945, from Chattanooga, Tenn.

**PRODUCT:** 17 100-pound bags of corn meal at Aiken, S. C., in the possession of Townsend and Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and a rodent nest was found in one bag. Examination showed that the product contained rodent excreta pellets, rodent hair fragments, weevils, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### FLOUR

**Nos. 9020 to 9026** report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination is known, that fact is stated in the notice of judgment.) The flour reported in No. 9027 failed to meet the standard for enriched flour.

**9020. Adulteration of plain flour, self-rising flour, and corn meal. U. S. v. Winchester Milling Corporation and Charles F. Coffman. Plea of guilty. Fine, \$200.** (F. D. C. No. 14240. Sample Nos. 35562-F, 58803-F, 59193-F, 59194-F, 59196-F.)

**INFORMATION FILED:** March 23, 1945, Western District of Virginia, against the Winchester Milling Corporation, Winchester, Va., and Charles F. Coffman, president of the corporation.

**ALLEGED SHIPMENT:** Between the approximate dates of December 2, 1943, and May 24, 1944, from the State of Virginia into the States of North Carolina and West Virginia.

**LABEL, IN PART:** "High Patent Supreme Flour," "Supreme Quality \* \* \* Self-Rising Flour," "Magnolia High Patent \* \* \* Enriched Flour," or "Crystal Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments, larvae, rodent excreta pellet fragments, rodent hair fragments, live adult insects, larva cast skins, and larva head capsules; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** October 23, 1945. A plea of guilty having been entered, the defendants were sentenced to pay a fine of \$40 on each count, a total fine of \$200.

**9021. Adulteration of flour and cream meal. U. S. v. 130 Bags of Flour and 606 Bags of Cream Meal. Default decrees of condemnation. Products ordered delivered to a public institution. (F. D. C. Nos. 15986, 15987. Sample Nos. 24426-H, 24427-H.)**

**LIBELS FILED:** On or about May 7, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** Between the approximate dates of November 13, 1944, and January 4, 1945, from Wichita, Kans., and Memphis, Tenn.

**PRODUCT:** 130 25-pound bags of flour and 216 100-pound bags and 390 25-pound bags of cream meal at Mobile, Ala., in the possession of the Merchants Supply Co. The products were stored under insanitary conditions. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. The products had been contaminated with urine, and they contained rodent excreta. In addition, the cream meal contained weevils and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** July 24 and August 13, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to a public institution, to be used for purposes other than human consumption.

**9022. Adulteration of flour and corn meal. U. S. v. 18 Bags of Corn Meal and 27 Bags of Plain Flour. Default decree of condemnation and destruction. (F. D. C. No. 16013. Sample Nos. 13595-H, 13596-H.)**

**LIBEL FILED:** On or about May 10, 1945, Eastern District of Tennessee.

**ALLEGED SHIPMENT:** On or about August 11, 1944, by the B. A. Eckhart Milling Co., from Chicago, Ill.

**PRODUCT:** 18 100-pound bags of corn meal and 27 100-pound bags of plain flour at Knoxville, Tenn.

**LABEL, IN PART:** "Amerikorn Cream Meal Made from White Corn Chas. A. Krause Milling Co. Milwaukee, Wis.," or "Garfield Soft Winter Wheat Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** June 26, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed. Destruction was effected by delivering them to a charitable institution, for use as animal feed.

**9023. Adulteration of flour. U. S. v. 146 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 15805. Sample No. 3438-H.)**

**LIBEL FILED:** April 6, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about March 26, 1945, by the Zy-Vo Corporation, from Philadelphia, Pa.

**PRODUCT:** 146 50-pound bags of flour at Baltimore, Md.

**LABEL, IN PART:** "No. 3 Edible Flour \* \* \* Zy-Vo Base."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 22, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9024. Adulteration of flour. U. S. v. 210 Bags of Flour. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15853. Sample No. 29271-H.)**

**LIBEL FILED:** March 31, 1945, Northern District of California.



**ALLEGED SHIPMENT:** Between the approximate dates of November 17, 1944, and February 8, 1945, from Tacoma, Wash.

**PRODUCT:** 210 100-pound bags of flour at San Francisco, Calif., in the possession of the Best Foods, Inc. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 16, 1945. The Best Foods, Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned upon its disposition for use other than for human consumption, under the supervision of the Food and Drug Administration.

**9025. Adulteration of flour. U. S. v. 91 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 16402 to 16404, incl. Sample Nos. 24628-H, 24629-H.)

**LIBEL FILED:** On or about June 14, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about March 23 and 31, 1945, by the Midland Flour Milling Co., from Blackwell, Okla.

**PRODUCT:** 91 100-pound bags of flour at New Orleans, La.

**LABEL, IN PART:** "Nabob Flour Bleached," or "Progresso Extra Fancy Patent Bleached Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product contained weevils and larvae.

**DISPOSITION:** July 17, 1945. John E. Koerner & Co., New Orleans, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**9026. Adulteration of flour. U. S. v. 19 Bags and 412 Bags of Flour. Default decrees of condemnation and destruction.** (F. D. C. Nos. 15959, 15980. Sample Nos. 27439-H to 27442-H, incl.)

**LIBELS FILED:** April 25 and May 5, 1945, District of Oregon.

**ALLEGED SHIPMENT:** Between the approximate dates of November 24, 1944, and February 23, 1945, from Seattle and Tacoma, Wash.

**PRODUCT:** 379 50-pound bags and 52 25-pound bags of flour at Medford, Oreg., in the possession of Mason, Ehrman and Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. The product contained rodent excreta and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 23, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9027. Adulteration and misbranding of enriched phosphated flour and enriched self-rising flour. U. S. v. 385 Bags of Enriched Self-rising Flour and 146 Bags of Enriched Phosphated Flour (and 1 other seizure action against flour). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered delivered to a charitable institution.** (F. D. C. Nos. 16282, 16283. Sample Nos. 21850-H to 21852-H, incl., 23965-H to 23967-H, incl.)

**LIBELS FILED:** May 22, 1945, Northern District of Alabama; May 28, 1945, Western District of Tennessee.



**ALLEGED SHIPMENT:** Between the approximate dates of April 19 and 27, 1945, by the St. Marys Mill Co., from St. Marys, Mo.

**PRODUCT:** 385 bags of enriched self-rising flour and 146 bags of enriched phosphated flour at Birmingham, Ala., and 800 bags of enriched self-rising flour and 500 bags of enriched phosphated flour at Memphis, Tenn. Examination showed that the products contained between 1.22 milligrams and 1.58 milligrams of vitamin B<sub>1</sub>; and that the content of iron in portions of the products varied between 10.6 milligrams and 11.9 milligrams.

**LABEL, IN PART:** "Orris Bleached Self-Rising Flour," "Iron Snow Wreath Bleached—Phosphated Plain," "Bleached Enriched Snow Wreath Flour \* \* \* Self-Rising," "Bleached Country Club Brand Self-Rising Flour," or "Kroger's Country Club Quality Brand Phosphated Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub> and iron, had been in part omitted.

Misbranding, Section 403 (g) (1), the articles failed to conform to the definition and standard of identity for enriched phosphated and self-rising flour since they contained, in each pound, less than 2.0 milligrams of thiamine (vitamin B<sub>1</sub>), and portions contained less than 13.0 milligrams of iron, the minimum thiamine and iron content permitted by the regulations. Portions were further misbranded under Section 403 (f) in that the information concerning their vitamin properties, which is required by the regulations to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it was illegible.

**DISPOSITION:** June 23 and 25, 1945. The St. Marys Mill Co., St. Marys, Mo., having appeared as claimant for the Memphis lot and having consented to the entry of a decree, and no claimant having appeared for the Birmingham lot, judgments of condemnation were entered. The flour in the Memphis lot was ordered released under bond to be remilled in compliance with the law, under the supervision of the Federal Security Agency, and the flour in the Birmingham lot was ordered delivered to a charitable institution. Thereafter, it was found that a portion of the Birmingham lot was badly contaminated and, on August 22, 1945, an amended decree was entered providing for the destruction of that portion.

#### MISCELLANEOUS CEREAL PRODUCTS

**9028. Adulteration of corn flakes. U. S. v. 80 Bags and 572 Bags of Corn Flakes. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed or delivered to a Federal institution. (F. D. C. Nos. 15954, 15955. Sample Nos. 627-H, 628-H.)**

**LIBELS FILED:** April 21, 1945, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about January 16 and 24, 1945, from Milwaukee, Wis., and Decatur, Ill.

**PRODUCT:** 652 50-pound bags of corn flakes at Milledgeville, Ga., in the possession of the Hodges Candy Co.

The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product was contaminated with rodent urine, and that it contained rodent pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 3, 1945. The Hodges Candy Co. having appeared as claimant for the 572-bag lot and having admitted that the product was adulterated as charged, judgment of condemnation was entered and the product was ordered released under bond for the segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration. The unfit portion was denatured. On May 26, 1945, no claimant having appeared for the other lot, judgment of condemnation was entered and the product was ordered destroyed or delivered to a Federal institution, for use as animal feed.



**9029. Adulteration of brewer's corn grits. U. S. v. 40 Bags of Brewer's Corn Grits. Default decree entered ordering the product destroyed unless reprocessed for use as animal feed. (F. D. C. No. 15891. Sample No. 18724-F.)**

**LIBEL FILED:** April 12, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 25, 1945, by the Charles A. Krause Milling Co., from Milwaukee, Wis.

**PRODUCT:** 40 100-pound bags of brewer's corn grits at Duluth, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and webbing.

**DISPOSITION:** July 7, 1945. No claimant having appeared, judgment was entered ordering the product destroyed unless reprocessed for use as animal feed, under the supervision of the Food and Drug Administration.

**9030. Adulteration of brewer's corn grits. U. S. v. 700 Bags of Brewer's Corn Grits. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15863. Sample No. 18723-H.)**

**LIBEL FILED:** April 6, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 20, 1944, from Milwaukee, Wis.

**PRODUCT:** 700 100-pound bags of brewer's corn grits at Duluth, Minn., in the possession of the Fitger Brewing Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed and urine-stained, and rodent excreta pellets were observed on them. Examination showed that the product contained rodent excreta pellets, rodent hairs, larvae, and insect webbing.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 10, 1945. The Fitger Brewing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9031. Adulteration of cracker meal. U. S. v. Junge Cracker Co. (Junge Biscuit Co.). Defendant found guilty. Fine, \$100. (F. D. C. No. 15543. Sample No. 80541-F.)**

**INFORMATION FILED:** August 9, 1945, Western District of Missouri, against the Junge Cracker Co., trading as the Junge Biscuit Co., Joplin, Mo.

**ALLEGED SHIPMENT:** On or about July 14, 1944, from the State of Missouri into the State of Arkansas.

**LABEL, IN PART:** "Cracker Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, one unidentified insect, rodent excreta pellets, rodent hair fragments, and hairs resembling rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 18, 1945. The defendant was convicted and fined \$100.

**9032. Adulteration of farina. U. S. v. 25 Bags of Farina. Consent decree of condemnation and destruction. (F. D. C. No. 15883. Sample No. 26840-H.)**

**LIBEL FILED:** On or about April 7, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about October 25, 1944, from Kansas City, Mo.

**PRODUCT:** 25 100-pound bags of farina at Denver, Colo., in the possession of the Bankers Warehouse Co. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained rodent pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 20, 1945. The consignee having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9033. Adulteration of roasted oats. U. S. v. 50 Cases of Roasted Oats. Default decree of forfeiture. Product ordered delivered to a charitable institution, to be used for animal feed. (F. D. C. No. 13692. Sample No. 58995-F.)**

**LIBEL FILED:** September 13, 1944, Western District of Virginia.

**ALLEGED SHIPMENT:** On or about August 19, 1943, by the Northern Illinois Cereal Co., from Lockport, Ill.

**PRODUCT:** 50 cases, each containing 24 14-ounce cartons, of roasted oats at Lynchburg, Va.

**LABEL, IN PART:** "Gold Medal Coke Roasted Oats."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 4, 1944. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed. On December 22, 1944, an amended order was entered ordering the product delivered to a charitable institution, for use as animal feed.

**9034. Adulteration of rolled oats. U. S. v. 25 Bags of Rolled Oats. Default decree ordering that the product be destroyed unless converted into animal feed. (F. D. C. No. 15850. Sample No. 18722-H.)**

**LIBEL FILED:** April 2, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 10, 1944, and January 17, 1945, from Cedar Rapids, Iowa.

**PRODUCT:** 25 50-pound bags of rolled oats at Duluth, Minn., in the possession of the Twin Ports Wholesale Grocery Co. The article was stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the bags, and examination showed that the article had been contaminated with rodent urine and that it contained weevils and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 13, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed or converted into animal feed, under the supervision of the Food and Drug Administration.

**9035. Adulteration of popcorn. U. S. v. 622 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15826. Sample No. 31517-H.)**

**LIBEL FILED:** March 29, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about December 1, 1944, from Evansville, Ind.

**PRODUCT:** 622 100-pound bags of popcorn at Los Angeles, Calif., in the possession of the Metropolitan Warehouse. This product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent pellets and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 10, 1945. The R. C. Mead Co., Los Angeles, Calif., claimant, having admitted the allegation of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.



**9036. Adulteration of popcorn. U. S. v. 18 Bags of Popcorn. Default decree of condemnation and destruction. (F. D. C. No. 15825. Sample No. 17427-H.)**

**LIBEL FILED:** April 7, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 19 and October 23, 1944, by the R. M. Tuttle Popcorn Co., from Spencer, Iowa.

**PRODUCT:** 18 100-pound bags of popcorn at Rockford, Ill.

**LABEL, IN PART:** "Flaky-Burst Brand White Dwarf Hull-less Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9037. Adulteration of popcorn. U. S. v. 165 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15822. Sample No. 18720.)**

**LIBEL FILED:** March 31, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 15, 1945, from Loveland, Colo.

**PRODUCT:** 165 110-pound bags of popcorn at Minneapolis, Minn., in the possession of the Pophitt Cereal Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta pellets and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 8, 1945. The Pophitt Cereal Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9038. Adulteration of popcorn. U. S. v. 52 Bags of Popcorn. Default decree of condemnation. Product ordered sold. (F. D. C. No. 16190. Sample No. 24431-H.)**

**LIBEL FILED:** May 17, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about December 16, 1944, from Lake View, Iowa.

**PRODUCT:** 52 100-pound bags of popcorn at New Orleans, La., in the possession of the Commercial Terminal Warehouse Company, Inc. The product was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent pellets, rodent hair fragments, and rodent-damaged kernels.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold on condition that it be denatured and disposed of for stock feed or used in the manufacture of alcohol.

**9039. Misbranding of candied popcorn. U. S. v. 163 Cases of Candied Popcorn. Consent decree ordering the release of the product under bond. (F. D. C. No. 16389. Sample No. 26138-H.)**

**LIBEL FILED:** June 5, 1945, District of New Mexico.

**ALLEGED SHIPMENT:** On or about March 10, 17, and 24, 1945, by the Platter-Neff Co., from El Paso, Tex.

**PRODUCT:** 163 cases, each containing 60 packages, of candied popcorn at Albuquerque, N. Mex. The product was short-weight.

**LABEL, IN PART:** "S and H Korn Dulsay 10¢ Net weight 3¼ Oz. S & H Products Co., El Paso, Texas."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** June 16, 1945. The S & H Products Co. having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond for reweighing and repacking under the supervision of the Food and Drug Administration.

**9040. Adulteration of rice grits. U. S. v. 100 Bags of Rice Grits. Default decree of condemnation. Product ordered sold to the highest bidder. (F. D. C. No. 15845. Sample No. 22030-H.)**

**LIBEL FILED:** March 30, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 31, 1944, from Crowley, La.

**PRODUCT:** 100 100-pound bags of rice grits at St. Louis, Mo., in the possession of the Grocers Warehouse.

The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained rodent pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of safeguards to insure that it would not be disposed of for human consumption.

**9041. Adulteration of powdered starch. U. S. v. 50 Bags of Powdered Starch. Default decree of condemnation and destruction. (F. D. C. No. 15847. Sample No. 31520-H.)**

**LIBEL FILED:** March 30, 1945, Southern District of California.

**ALLEGED SHIPMENT:** Between the approximate dates of December 13 and 28, 1943, from Decatur, Ill.

**PRODUCT:** 50 140-pound bags of powdered starch at Los Angeles, Calif., in the possession of the Metropolitan Warehouse Co. The product had been stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the bags, and examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## **CHOCOLATE, SUGARS, AND RELATED PRODUCTS\***

### **CANDY**

**9042. Adulteration of candy. U. S. v. Licorice Products Co., Russell H. Andelfinger, and Clyde F. Roberts. Pleas of guilty. Corporate defendant fined \$400; individual defendants fined \$100 each. (F. D. C. No. 15551. Sample Nos. 18331-H, 18332-H, 18871-H, 18874-H.)**

**INFORMATION FILED:** May 28, 1945, Northern District of Iowa, against the Licorice Products Co., a corporation, and Russell H. Andelfinger and Clyde F. Roberts, president and secretary-treasurer, respectively, Dubuque, Iowa.

**ALLEGED SHIPMENT:** Between the approximate dates of January 19 and March 2, 1945, from the State of Iowa into the State of Minnesota.

**LABEL, IN PART:** "120 Count 1 Cent Each Four Aces," or "Licorice Rolls."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, larvae, insect parts, insect fragments, and a mite; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

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\*See also No. 9039.



**DISPOSITION:** December 4, 1945. Pleas of guilty having been entered by the individual defendants and on behalf of the corporate defendant, the court imposed fines on the individuals of \$25 on each count and on the corporation of \$100 on each count, total fines of \$600.

**9043. Adulteration of candy. U. S. v. Kopper's Chocolate Specialty Co., Inc., Fred Stern, and Karl Frankel. Pleas of guilty. Corporate defendant fined \$500; individual defendants fined \$500 each and sentenced to serve 1 day's imprisonment. (F. D. C. No. 9626. Sample Nos. 23161-F, 36865-F to 36867-F, incl.)**

**INFORMATION FILED:** January 17, 1946, Southern District of New York, against Kopper's Chocolate Specialty Co., Inc., New York, N. Y., and Fred Stern, president, and Karl Frankel, secretary-treasurer.

**ALLEGED SHIPMENT:** On or about January 18 and 19, 1943, from the State of New York into the States of Maryland and Pennsylvania.

**LABEL, IN PART:** "Kopper's Assorted Dragees," "Kopper's Chocolates," "Lentils," or "Mint Dragees."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, mammalian hairs resembling rodent hairs, an insect, insect fragments, and miscellaneous filth such as wood splinters and a feather fragment.

**DISPOSITION:** January 28, 1946. Pleas of guilty having been entered, the court sentenced the corporate defendant to pay a fine of \$500 and the individual defendants to pay fines of \$500 each. Each of the individual defendants was also sentenced to serve 1 day's imprisonment.

**9044. Adulteration of candy. U. S. v. 54 Boxes of Sweet Chocolate Bars. Default decree of condemnation and destruction. (F. D. C. No. 15686. Sample No. 24310-H.)**

**LIBEL FILED:** March 24, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about January 7, 1944, by K. O. Kleppe and Company, from Buenos Aires, Argentina.

**PRODUCT:** 54 boxes, each containing 20 cartons of 25 6-ounce bars, of sweet chocolate at New Orleans, La.

**LABEL, IN PART:** "Sweet Chocolate. Ingredients: Sugar and Chocolate. Product of Argentina 'La Perfeccion' Carlos Columbo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect excreta, and webbing.

**DISPOSITION:** February 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9045. Adulteration of candy. U. S. v. 5 Cartons of Toffee Crunch and 9 Cartons of Victory Squares. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 15823. Sample Nos. 28545-H, 28546-H.)**

**LIBEL FILED:** May 5, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about March 10, 1945, by the Los Angeles Nut House, from Los Angeles, Calif.

**PRODUCT:** 5 20-pound cartons of Toffee Crunch and 9 17-pound cartons of Victory Squares at Bellingham, Wash.

**LABEL, IN PART:** "DeLuxe Toffee Crunch," or "Victory Squares."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed by delivery to a Federal institution.

**9046. Adulteration of candy. U. S. v. 54 Boxes, 45 Boxes, and 2 Cases of Candy. Default decrees of condemnation and destruction. (F. D. C. Nos. 15936, 16075. Sample Nos. 5824-H, 22925-H, 22926-H.)**

**LIBELS FILED:** April 19 and May 1, 1945, Eastern District of Missouri and Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 23 and 31, 1945, by J. Ralph Kirkley, Inc., from Philadelphia, Pa.

**PRODUCT:** 45 boxes, each containing 40 bars, and 2 cases, each containing 48 1-pound boxes, of candy at St. Louis, Mo.; and 54 5-pound boxes of candy at New Rochelle, N. Y.

**LABEL, IN PART:** "Kirkley's Chocolate Kernel Bars 5¢," "Kirkley's Kernels Chocolate Covered Assorted Nuts," or "Fine Filled 'Art' Candies Kirkley's Krunch Kandies."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, cat hairs, and cat hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 15 and 23, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9047. Adulteration of candy. U. S. v. 9 Cases of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 15851. Sample No. 22916-H.)

**LIBEL FILED:** April 18, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about February 20, 1945, by the Big "D" Candy Co., from Dallas, Tex.

**PRODUCT:** 9 cases, each containing 24 boxes of 16 10-cent rolls, of candy at St. Louis, Mo.

**LABEL, IN PART:** "Big-D Pecan Roll."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (d), it was confectionery and it contained a non-nutritive substance, mineral oil.

**DISPOSITION:** May 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9048. Adulteration of hard candy. U. S. v. 38 Cartons and 15 Cartons of Hard Candy. Default decree of condemnation and destruction.** (F. D. C. No. 16304. Sample No. 11019-H.)

**LIBEL FILED:** May 31, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about May 7, 1945, by the Pioneer Specialty Co., from Brooklyn, N. Y.

**PRODUCT:** 38 35-pound cartons and 15 39-pound cartons of hard candy at Lawrence, Mass. Examination showed that the product was hard candy shaped like footballs, and that broken lollypop sticks were imbedded in the candy.

**LABEL, IN PART:** "Unwrapped Footballs."

**NATURE OF CHARGE:** Adulteration, Section 402 (d), the product was confectionery and it contained a nonnutritive article, a wooden stick. Some of the sticks had been broken off flush with the candy and others extended  $\frac{3}{4}$  inch out of the candy.

**DISPOSITION:** July 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9049. Adulteration and misbranding of candy. U. S. v. 790 Boxes of Candy (and 4 other seizure actions against candy). Default decrees of condemnation. Portion of the product ordered destroyed; remainder ordered delivered to charitable institutions.** (F. D. C. Nos. 16017, 16095, 16096, 16200, 16201. Sample Nos. 6970-H, 6971-H, 12919-H, 23946-H, 23947-H.)

**LIBELS FILED:** Between May 1 and 16, 1945, Northern District of Alabama, Southern District of Ohio, and District of New Jersey.

**ALLEGED SHIPMENT:** Between the approximate dates of March 7 and April 4, 1945, by the Tower Candy Co., from Philadelphia, Pa.

**PRODUCT:** 790 boxes at Birmingham, Ala., 274 boxes at Ensley, Ala., 194 boxes at Jersey City, N. J., 194 boxes at Newark, N. J., and 192 boxes at Dayton, Ohio, each box containing 1 pound of candy.



**LABEL, IN PART:** "Gold Brand Pecan Cream Loaf [vignette of a sliced loaf of candy containing numerous large pieces of pecan]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, pecans, had been in part omitted from the article.

Misbranding, Section 403 (a), the name "Pecan Cream Loaf" and the vignette of a sliced loaf of candy containing numerous large pieces of pecan were misleading as applied to the article, which contained a small number of widely scattered pecan fragments.

**DISPOSITION:** Between June 16 and August 13, 1945, no claimant having appeared, judgments of condemnation were entered and it was ordered that the Ohio lot be destroyed and that the other lots be delivered to charitable institutions.

**9050. Misbranding of candy. U. S. v. 13 Cartons of Mint Chewees. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16178. Sample No. 28734-H.)**

**LIBEL FILED:** June 11, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about April 19, 1945, by the Walter A. Hewitt Candy Co., from Los Angeles, Calif.

**PRODUCT:** 13 cartons, each containing 34 boxes, of Mint Chewees at Seattle, Wash. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Capt'n Kid Pleasure Chest Mint Chewees 1 Lb. Net Weight."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of its contents.

**DISPOSITION:** July 23, 1945. The Walter A. Hewitt Candy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**9051. Misbranding of candy. U. S. v. 48 Cases of Candy. Default decree of condemnation and destruction. (F. D. C. No. 15830. Sample No. 28180-H.)**

**LIBEL FILED:** March 30, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about February 1, 1945, by the House of Merrick, from Chicago, Ill.

**PRODUCT:** 48 cases, each containing 33 or 44 packages, of candy at Tacoma, Wash. Examination showed that the product was short of the declared weight.

**LABEL, IN PART:** (Packages) "Bertha Whitworth's Early American Confections Net Weight 10 oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** April 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### COCOA AND MISCELLANEOUS SACCHARINE PRODUCTS

**9052. Adulteration of cocoa. U. S. v. 1 Drum of Cocoa. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 15894. Sample No. 17431-H.)**

**LIBEL FILED:** April 20, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 2, 1945, by the Ambrosia Chocolate Co., from Milwaukee, Wis.

**PRODUCT:** 1 200-pound drum of cocoa at Chicago, Ill.

**LABEL, IN PART:** "Ambrosia Brand Dutch Process Cocoa."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** On January 29, 1945, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On February 12, 1945, the order was amended to permit the product to be delivered to a public institution, for use as animal feed.

**9053. Misbranding of honey. U. S. v. 60 Cases of Honey. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 15924. Sample No. 28719-H.)**

**LIBEL FILED:** May 21, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about December 31, 1943, by the Evans Honey Co., from Los Angeles, Calif.

**PRODUCT:** 66 cases, each containing 24 jars, of honey at Seattle, Wash. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Net Wt. 1 lb. Evans U. S. Fancy Grade Pure Honey."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution.

**9054. Adulteration of sirup. U. S. v. 161 Cases of Sirup (and 2 other seizure actions against sirup). Default decrees of condemnation and destruction. (F. D. C. Nos. 16340 to 16342, incl. Sample Nos. 255-H to 260-H, incl.)**

**LIBELS FILED:** June 5, 1945, Western District of North Carolina.

**ALLEGED SHIPMENT:** Between the approximate dates of October 7 and 13, 1943, by the Ol' South Extract Co., from Rochester, N. Y.

**PRODUCT:** 248 cases, each containing 12 16-ounce bottles, and 21 cases, each containing 24 16-ounce bottles, of sirup at Asheville, N. C.

**LABEL, IN PART:** "Ol' South Mapleflo Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance, since it was fermented.

**DISPOSITION:** July 9, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9055. Adulteration and misbranding of maple sirup. U. S. v. Charles Levy (Tiffany Extract Co.). Plea of guilty. Fine, \$200. (F. D. C. No. 15484. Sample Nos. 76227-F, 82168-F.)**

**INFORMATION FILED:** October 9, 1945, District of New Jersey, against Charles Levy, trading as Tiffany Extract Co., Paterson, N. J.

**ALLEGED SHIPMENT:** May 26 and June 16, 1944, from the State of New Jersey into the State of New York.

**PRODUCT:** One shipment of this sirup was labeled as being sap maple sirup, which is a product made from maple sap. The other shipment was labeled as being maple sirup, which is a product which may be made from either maple sap or maple sugar.

**LABEL, IN PART:** "100% Grade A Pure Vermont Maple Syrup Sap," or "Roland 100% Grade A Pure Vermont Maple Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, maple sap or maple sugar, had been in whole or in part omitted in the manufacture of the articles; and, Section 402 (b) (2), sugar sirups containing more than 35 percent of water and little or no maple sirup had been substituted for maple sap sirup and maple sirup, products which should contain not more than 35 percent of water and which, in the case of the former, should be made solely from maple sap and, in the case of the latter, should be made solely from maple sugar or maple sap.

Misbranding, Section 403 (a), the statement, "100% Grade A Pure Vermont Maple Syrup Sap," and the design of a maple leaf and maple trees, and the statement, "100% Grade A Pure Vermont Maple Syrup," on the labels of the respective products, were false and misleading; and Section 403 (i) (2), the labels of both products failed to bear the common or usual name of each ingredient from which the products were fabricated.

**DISPOSITION:** November 9, 1945. The defendant having entered a plea of guilty, the court imposed a fine of \$200 on each count. Payment of the fines on counts 2, 3, and 4 was suspended and the defendant was placed on probation for 1 year.



**9056. Misbranding of pancake sirup. U. S. v. 200 Cases of Pancake Sirup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12242. Sample No. 52302-F.)**

**LIBEL FILED:** April 24, 1944, District of Maine.

**ALLEGED SHIPMENT:** On or about February 24, 1944, by the D. A. Perkins Co., from Somerville, Mass.

**PRODUCT:** 200 cases, each containing 12 16-ounce bottles, of pancake sirup at Portland, Maine.

**LABEL, IN PART:** "Pan Cake Syrup \* \* \* Made From Pure Cane Syrup Imitation Maple Flavor."

**NATURE OF CHARGE:** Misbranding, Section 403 (c), the product was an imitation of maple sirup, and its label failed to bear, in type of uniform size and prominence, the words "imitation" and, immediately thereafter, the name of the food imitated.

**DISPOSITION:** August 14, 1945. The Great Atlantic & Pacific Tea Co. of New Jersey, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9057. Misbranding of pancake sirup. U. S. v. 885 Cases, 150 Cases, and 495 Cases of Pancake Sirup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 11966. Sample Nos. 51949-F, 51950-F.)**

**LIBEL FILED:** March 10, 1944, District of Maine.

**ALLEGED SHIPMENT:** From on or about November 13, 1943, to on or about January 19, 1944, by the Tri-Western Products Corporation, Cambridge, Mass.

**PRODUCT:** 885 cases, each containing 12 16-ounce bottles, 150 cases, each containing 24 16-ounce bottles, and 495 cases, each containing 12 32-ounce bottles, of pancake sirup at Portland, Maine.

**LABEL, IN PART:** "Maple-Tree Farm Brand Pancake Syrup Made from Pure Cane Sugar Syrup Imitation Maple Flavor D. A. Perkins Co., Cambridge, Mass. 16 Oz.," or "Maple-Tree Farm Brand Pancake Syrup Maple-Tree Farm Products Co. Cambridge, Mass. Made from Pure Cane Sugar Syrup Imitation Maple Flavor 16 [or "32"] Oz."

**NATURE OF CHARGE:** Misbranding, Section 403(a), the words "Maple-Tree" in the brand name and in the firm name on some of the bottle labels were misleading since the product was an artificially colored and flavored sugar solution containing little or no maple sirup; and the statement on all the labels, "Made from Pure Cane Sugar Syrup," was false and misleading since the article contained more water than is contained in pure sugar sirup.

Further misbranding, Section 403(c), the product was an imitation of another food, maple sirup, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403(e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents, since the article was a liquid and the statement of quantity of contents was not expressed in terms of liquid measure and in terms of the largest unit; Section 403(f), the statement "Imitation Maple Flavor" was not prominently placed on the label with such conspicuousness, as compared with other statements in the labeling, as to render it likely to be read by the ordinary individual under customary conditions of purchase and use; and, Section 403 (k), the product contained artificial coloring, caramel, and it failed to bear labeling stating that fact.

**DISPOSITION:** August 7, 1945. The Great Atlantic & Pacific Tea Co. of New Jersey, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9058. Misbranding of marshmallow topping. U. S. v. 18 Cases of Marshmallow Topping. Default decree of condemnation. Product ordered delivered to an institution. (F. D. C. No. 15973. Sample No. 27579-H.)**

**LIBEL FILED:** On or about May 1, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about March 13, 1945, by the Transpac Products Co., from San Francisco, Calif.

**PRODUCT:** 18 cases, each containing 24 jars, of marshmallow topping at Portland, Oreg. Examination showed that the article was short-weight.

**LABEL, IN PART:** "Transpac Marshmallow Creme Net Contents 8 Oz. by Weight."

**NATURE OF CHARGE:** Misbranding, Section 403(e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** June 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable or public institution.

## DAIRY PRODUCTS\*

### BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 9059 to 9062; that was below the legal standard for milk fat content, Nos. 9059, 9062 to 9075; and that was short of the declared weight, Nos. 9059, 9076.

**9059. Adulteration and misbranding of butter. U. S. v. Colonial Stores, Inc. Plea of nolo contendere. Fine, \$600. (F. D. C. No. 14317. Sample Nos. 34913-F, 34924-F.)**

**INFORMATION FILED:** July 9, 1945, Northern District of Georgia, against Colonial Stores, Inc., a corporation, Atlanta, Ga.

**ALLEGED SHIPMENT:** On or about August 3 and 30, 1944, from the State of Georgia into the State of Alabama.

**LABEL, IN PART:** "Superior Brand Butter One Pound Net \* \* \* Made \* \* \* by Jefferson Creamery Inc. Americus, Ga."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of ants, one other insect, insect parts, insect fragments, a hair (probably human), and a feather barb, and of a decomposed substance as evidenced by the presence of mold; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), the label of the article failed to bear an accurate statement of the quantity of the contents since the cartons contained less than the declared weight, "One Pound Net."

**DISPOSITION:** October 1, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$150 on each of the 4 counts.

**9060. Adulteration of butter. U. S. v. the Hollywood Creamery Co. Plea of nolo contendere. Fine, \$15. (F. D. C. No. 15552. Sample Nos. 86309-F to 86311-F, incl.)**

**INFORMATION FILED:** June 27, 1945, District of Colorado, against the Hollywood Creamery Co., a corporation, Colorado Springs, Colo. The defendant was charged with giving a false guaranty. The guaranty was given to Armour & Co., of Chicago, Ill., on or about February 26, 1943. It provided that the article comprising each shipment or delivery made by the defendant to the latter firm would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about November 3, 1944, the defendant sold and delivered to Armour and Co. a quantity of butter which was shipped on the same date by Armour and Co. from the State of Colorado into the State of Arizona.

**LABEL, IN PART:** "Armour's Cloverbloom \* \* \* Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and feather barbules; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 30, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$5 on each count, a total fine of \$15, was imposed.

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\*See also Nos. 9176, 9177.



**9061. Adulteration of butter. U. S. v. 120 Boxes (8,640 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 16358. Sample No. 73182-F.)**

**LIBEL FILED:** October 21, 1944, Northern District of California.

**ALLEGED SHIPMENT:** On or about September 26, 1944, by the Farmers' Equity Co-operative Creamery Association, from Denver, Colo.

**PRODUCT:** 120 boxes of butter at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a filthy or decomposed substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 28, 1945. The Farmers' Equity Co-operative Creamery Association, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of for industrial nonfood use, under the supervision of the Federal Security Agency.

**9062. Adulteration of butter. U. S. v. 62 Cartons (4,030 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16356. Sample No. 86353-F.)**

**LIBEL FILED:** March 12, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about November 3, 16, and 23, 1944, by the Minden Creamery Co., from Minden, Nebr.

**PRODUCT:** 62 65-pound cartons of butter at Denver, Colo. The product contained insect and rodent filth, feather barbules, and paper fiber.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a filthy substance; and, Section 402(b)(1), butter fat had been omitted or extracted from it.

**DISPOSITION:** April 6, 1945. The Health Creamery, Denver, Colo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the butter was order released under bond, conditioned that the contaminated portion of the product be removed and destroyed for food purposes, and that the portion suitable for human food be utilized in the manufacture of ice cream.

**9063. Adulteration of butter. U. S. v. Alfred Anderson (Anderson Creamery Co.). Plea of guilty. Fine of \$250 on count 1; defendant placed on probation for 2 years on count 2. (F. D. C. No. 15507. Sample Nos. 84818-F, 87354-F.)**

**INFORMATION FILED:** July 9, 1945, District of Minnesota, against Alfred Anderson, trading as the Anderson Creamery Co., Litchfield, Minn.

**ALLEGED SHIPMENT:** On or about August 24 and September 14, 1944, from the State of Minnesota into the State of Pennsylvania.

**LABEL, IN PART:** "Butter Distributed by C. G. Heyd and Co. Phila Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** September 10, 1945. The defendant having entered a plea of guilty, the court imposed a fine of \$250 on count 1 and placed him on probation for 2 years on count 2.

**9064. Adulteration of butter. U. S. v. Murdock Farmers Co-operative Creamery Association. Plea of guilty. Fine, \$150. (F. D. C. No. 15519. Sample Nos. 82317-F, 87337-F.)**

**INFORMATION FILED:** September 10, 1945, District of Minnesota, against the Murdock Farmers Co-operative Creamery Association, a corporation, Murdock, Minn. The defendant was charged with giving a false guaranty. The guaranty was given to the West Central Cooperatives, Inc., Benson, Minn., on or about June 2, 1944. It provided that the article comprising each shipment or delivery made by the defendant to the latter firm would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about August 9 and 17, 1944, the defendant sold and delivered to the West Central Cooperative, Inc., a quantity of butter; and on or about August 11 and 17, 1944, the West Central Cooperative, Inc., shipped from the State

of Minnesota into the State of New York a quantity of the butter which had been delivered and guaranteed by the defendant.

**LABEL, IN PART:** "Butter Distributed By Hunter Walton & Co. 2862 New York, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a substance containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** October 9, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$75 on each count, a total fine of \$150.

**9065. Adulteration of butter. U. S. v. Producers Creamery Co. of Kirksville. Plea of guilty. Fine, \$100. (F. D. C. No. 15574. Sample Nos. 93633-F, 93637-F.)**

**INFORMATION FILED:** August 11, 1945, Eastern District of Missouri, against the Producers Creamery Co. of Kirksville, a corporation, Kirksville, Mo.

**ALLEGED SHIPMENT:** On or about November 28, 1944, from the State of Missouri into the State of New Jersey.

**LABEL, IN PART:** (Cartons) "June Dairy Products Co. Inc. [on a number of cartons, "Distributors"] Jersey City N. J. Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 3, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

**9066. Adulteration of butter. U. S. v. Producers Dairy Marketing Association. Plea of guilty. Fine, \$50. (F. D. C. No. 15575. Sample No. 13101-H.)**

**INFORMATION FILED:** July 28, 1945, Southern District of Indiana, against the Producers Dairy Marketing Association, a corporation, Orleans, Ind.

**ALLEGED SHIPMENT:** On or about December 30, 1944, from the State of Indiana into the State of Ohio.

**LABEL, IN PART:** "Springdale Brand Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** October 19, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50.

**9067. Adulteration of butter. U. S. v. 12 Cartons (756 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15776. Sample No. 18934-H.)**

**LIBEL FILED:** February 15, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 8, 1945, by the Gandrud Creamery, from Redwood Falls, Minn.

**PRODUCT:** 12 63-pound cartons of butter at Philadelphia, Pa.

**LABEL, IN PART:** "Butter distributed Stanley Marvel, 781 Phila., Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** February 23, 1945. Stanley Marvel, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9068. Adulteration of butter. U. S. v. 475 Cases of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15778. Sample Nos. 13120-H to 13123-H, incl., 13126-H to 13136-H, incl.)**

**LIBEL FILED:** February 19, 1945, Western District of Kentucky.

**ALLEGED SHIPMENT:** Between the approximate dates of July 14 and October 20, 1944, by the Lanesville Creamery Co., from Lanesville, Ind.



**PRODUCT:** 475 32-pound cases of butter at Louisville, Ky.

**LABEL, IN PART:** (Carton) "Autumn Leaf Creamery Butter"; (wrapper) "Daisy Brand Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), the product contained less than 80 percent by weight of milk fat.

**DISPOSITION:** February 26, 1945. The Lanesville Creamery Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9069. Adulteration of butter. U. S. v. 21 63-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15781. Sample No. 18859-H.)**

**LIBEL FILED:** March 9, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 23, 1945, by the Rosebud Creamery Co., Gregory, S. Dak.

**PRODUCT:** 21 63-pound cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** March 22, 1945. The Vineland Butter & Egg Corporation, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9070. Adulteration of butter. U. S. v. 25 Cartons (1,600 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15784. Sample Nos. 5666-H, 18849-H.)**

**LIBEL FILED:** March 7, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 17, 1945, by the New Ulm Dairy, from New Ulm, Minn.

**PRODUCT:** 25 64-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Butter Distributed By F. F. Lowenfels & Son 330 New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** March 20, 1945. The New Ulm Dairy, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9071. Adulteration of butter. U. S. v. 18 Cartons (1,152 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15785. Sample Nos. 5676-H, 19001-H.)**

**LIBEL FILED:** March 26, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** March 6, 1945, by the Bowman Creamery Co., from Bowman, N. Dak.

**PRODUCT:** 18 64-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Butter John Doscher & Co. Distributors New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 9, 1945. The Standard Butter & Egg Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9072. Adulteration of butter. U. S. v. 169 Cartons (10,140 pounds) and 47 Cartons (2,860 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 15786, 16087. Sample Nos. 5673-H, 5674-H, 5677-H, 5678-H, 5681-H, 5684-H.)**

**LIBELS FILED:** March 24 and April 11, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 13 and 16, 1945, by the Lakeview Dairies, Inc., from Pepin, Wis.

**PRODUCT:** 169 60-pound cartons, 20 62-pound cartons, and 27 60-pound cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 25, 1945. The cases having been consolidated and Alex and Irene Eisenberg, trading as the Penn Blue Ridge Dairies, claimants, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9073. Adulteration of butter. U. S. v. 19 Cases of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 9009. Sample Nos. 31732-F, 31733-F.)**

**LIBEL FILED:** On or about December 7, 1942, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 24 and 27, 1942, by the Napoleon Creamery, from Napoleon, Ind.

**PRODUCT:** 19 30-pound cases of butter at Cincinnati, Ohio.

**LABEL, IN PART:** "Spring Dale Brand Creamery Butter The C. Eberle Sons Company, Distributors, Cincinnati, Ohio."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 11, 1942. The Napoleon Creamery, claimant, having admitted the facts of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9074. Adulteration of butter. U. S. v. 31 63-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16327. Sample No. 19037-H.)**

**LIBEL FILED:** May 18, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 9, 1945, by the Towner Creamery, from Towner, N. Dak.

**PRODUCT:** 31 63-pound cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 9, 1945. George Wittner & Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9075. Adulteration of butter. U. S. v. 116 Cartons (6,960 pounds) and 67 Cartons (4,020 pounds) of Butter. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16089, 16735. Sample Nos. 5685-H, 7406-H.)**

**LIBELS FILED:** April 12 and June 27, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 30 and June 16, 1945, by the Plymouth Creamery Co., from Le Mars, Iowa.

**PRODUCT:** 116 cartons and 67 cartons, each containing 60 pounds, of butter at New York, N. Y.

**LABEL, IN PART:** "Butter Distributed by Standard Butter & Egg Co. New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 25 and July 7, 1945. The Standard Butter and Egg Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9076. Misbranding of butter. U. S. v. 64 32-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15783. Sample No. 5664-H.)**

**LIBEL FILED:** March 6, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 19, 1945, by J. Rosenblum and Son, from New York, N. Y.



**PRODUCT:** 64 cartons, each containing 32 1-pound prints, of butter at Paterson, N. J. Examination showed that the product was short-weight.

**LABEL, IN PART:** "One Pound Net Creamery Butter Packed by Ben Goldenberg Inc. New York, N. Y."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 7, 1945. J. Rosenblum and Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reprinting to the declared weight, under the supervision of the Federal Security Agency.

## EGGS

**9077. Adulteration of dried eggs. U. S. v. 11 Cases of Dried Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 15884. Sample No. 27431-H.)**

**LIBEL FILED:** April 9, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about February 27, 1945, by the Union Pacific Railroad Agent, from Seattle, Wash.

**PRODUCT:** 11 56-pound cases of dried whole eggs, at Portland, Oreg. The product was moldy because of water damage.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9078. Adulteration of dried eggs. U. S. v. 1 Barrel of Dried Eggs. Default decree of condemnation and destruction. (F. D. C. No. 15747. Sample No. 5812-H.)**

**LIBEL FILED:** March 28, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 22, 1943, from Brooklyn, N. Y.

**PRODUCT:** 1 barrel containing about 170 pounds of dried eggs at Trenton, N. J.

**LABEL, IN PART:** "Samuel Dunkel & Co., Inc., New York, N. Y. July 1942 Spray Dried Whole Eggs Andes, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9079. Adulteration of frozen eggs. U. S. v. 160 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product released under bond. (F. D. C. No. 14529. Sample No. 87392-F.)**

**LIBEL FILED:** November 27, 1944, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 4, 1944, by Featherweight Foods, Inc., from Grand Forks, N. Dak.

**PRODUCT:** 160 30-pound cans of frozen whole eggs at St. Paul, Minn.

**LABEL, IN PART:** "Ocoma Fancy Frozen Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 28, 1945. The Omaha Cold Storage Co., Omaha, Nebr., claimant, having filed a motion for the removal of the case to the District of Nebraska, which motion was denied, and having subsequently admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9080. Adulteration of frozen eggs. U. S. v. 2,300 Cans and 312 Cans of Frozen Eggs. Decrees ordering portion of product released under bond; remainder condemned and destroyed. (F. D. C. Nos. 15787, 15788. Sample Nos. 2007-H, 4515-H.)**

**LIBELS FILED:** April 2 and 3, 1945, Eastern and Middle Districts of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 12 and 14, 1945, by Swift and Co., from Chicago, Ill.

**PRODUCT:** 2,300 cans and 312 cans, each can containing 30 pounds, of frozen eggs at Chambersburg and Philadelphia, Pa., respectively.

**LABEL, IN PART:** "Gold Crest Frozen Eggs A Blend of Yolks and Whites 26% Solids," or "(M) Frozen Blend of Egg Yolks & Egg Whites."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 1 and 3, 1945. Swift & Co., claimant for the lot at Chambersburg, having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration. No claimant having appeared for the Philadelphia lot, judgment of condemnation was entered and the product was ordered destroyed.

**9081. Adulteration of frozen eggs. U. S. v. 40 Cans of Frozen Whole Eggs. Default decree entered ordering the product destroyed unless reprocessed for use as animal feed. (F. D. C. No. 15849. Sample No. 18721-H.)**

**LIBEL FILED:** April 2, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about May 31, 1944, by The Bessemer Creamery Co., from Bessemer, Mich.

**PRODUCT:** 40 20-pound cans of frozen whole eggs at Duluth, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 7, 1945. No claimant having appeared, judgment was entered ordering the product destroyed unless reprocessed for use as animal feed, under the supervision of the Food and Drug Administration.

### FISH

**9082. Adulteration of frozen cod fillets. U. S. v. 42 Boxes of Frozen Cod Fillets. Default decree of condemnation and destruction. (F. D. C. No. 15896. Sample No. 5999-H.)**

**LIBEL FILED:** April 11, 1945, Northern District of New York.

**ALLEGED SHIPMENT:** On or about November 7, 1944, by J. Adams and Co., from Boston, Mass.

**PRODUCT:** 42 15-pound boxes of frozen cod fillets at Syracuse, N. Y.

**LABEL, IN PART:** "Cod Fillets 15 Lbs. Shamrock."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9083. Adulteration of frozen cod fillets. U. S. v. 95 Cartons of Frozen Cod Fillets. Default decree of condemnation and destruction. (F. D. C. No. 15899. Sample No. 6901-H.)**

**LIBEL FILED:** April 11, 1945, Northern District of New York.

**ALLEGED SHIPMENT:** On or about May 16, 1944, by Frost King Foods, Inc., from Boston, Mass.

**PRODUCT:** 95 20-pound cartons of frozen cod fillets at Syracuse, N. Y.

**LABEL, IN PART:** "Cod \* \* \* Shamrock."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9084. Adulteration of frozen eelpout fillets. U. S. v. 726 Cartons of Frozen Eelpout Fillets. Default decrees of condemnation and destruction. (F. D. C. Nos. 16362, 16363. Sample Nos. 6822-H, 6823-H.)**

**LIBELS FILED:** June 20, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 20, 1945, by the Seacoast Fish Co., from New Bedford, Mass.

**PRODUCT:** 726 10-pound cartons of eelpout fillets at New York, N. Y.

**LABEL, IN PART:** "Union Fillet Brand Packed by Union Fillet Co., New Bedford, Massachusetts Ocean Pout Fillets."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitized eelpout fillets; and, Section 402(a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** July 3, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9085. Adulteration of frozen haddock fillets. U. S. v. 122 Cartons of Haddock Fillets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15889. Sample Nos. 20450-H, 20467-H.)**

**LIBEL FILED:** April 9, 1945, District of Nebraska.

**ALLEGED SHIPMENT:** On or about February 12, 1945, by the Morris Fisheries, Inc., from Chicago, Ill.

**PRODUCT:** 122 cartons, each containing 2 5-pound boxes, of haddock fillets, at Omaha, Nebr.

**LABEL, IN PART:** "Genoa Haddock Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 17, 1945. The American Community Stores Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law or destroyed, under the supervision of the Federal Security Agency.

**9086. Adulteration of frozen haddock fillets. U. S. v. 458 Cartons of Frozen Haddock Fillets. Default decree of condemnation. Product ordered released to a State agency, for use as fish food. (F. D. C. No. 15885. Sample No. 5994-H.)**

**LIBEL FILED:** April 7, 1945, Northern District of New York.

**ALLEGED SHIPMENT:** On or about February 21, 1945, by the Distributors Terminal Warehouse, from Cleveland, Ohio.

**PRODUCT:** 458 10-pound cartons of frozen haddock fillets at Syracuse, N. Y.

**LABEL, IN PART:** "Frozen Haddock Fillets The Atlantic Coast Fisheries Co., Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** On June 28, 1945, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On August 1, 1945, an amended decree was entered providing for the release of the product to a State agency, for use as fish food.

**9087. Adulteration of fresh herring. U. S. v. 4 Boxes of Herring. Default decree of condemnation and destruction. (F. D. C. No. 15692. Sample No. 17929-H.)**

**LIBEL FILED:** On or about March 30, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 21, 1945, by R. Wich, from Two Harbors, Minn.

**PRODUCT:** 4 boxes, each containing 65 pounds, of herring, at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** June 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9088. Adulteration of salt cut herring. U. S. v. 112 Tubs of Cut Herring. Default decree of condemnation and destruction. (F. D. C. No. 16046. Sample No. 756-H.)**

**LIBEL FILED:** April 26, 1945, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about August 14 and 18, 1944, by the Southgate Brokerage Co., Inc., from Norfolk, Va.

**PRODUCT:** 112 tubs of salt cut herring at Sumter, S. C.

**LABEL, IN PART:** "Trawler Brand Chesapeake Bay Cut Herring 250 Count."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9089. Adulteration of herring tidbits. U. S. v. 49 Cases of Herring Tidbits. Default decree of condemnation and destruction. (F. D. C. No. 16407. Sample No. 28485-H.)**

**LIBEL FILED:** June 5, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about April 18, 1945, by B. Westergaard and Co., from Brooklyn, N. Y.

**PRODUCT:** 49 cases, each containing 12 12-ounce jars, of herring tidbits at Seattle, Wash. Examination showed that the product was undergoing active fermentation.

**LABEL, IN PART:** "Ole's Herring Tidbits in Wine Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9090. Adulteration of canned mackerel. U. S. v. 676 Cases of Canned Mackerel. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15868. Sample No. 17348-H.)**

**LIBEL FILED:** April 4, 1945, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about November 29, 1944, by Parrott & Co., from Los Angeles Harbor, Calif.

**PRODUCT:** 676 cases, each containing 48 cans, of mackerel at Milwaukee, Wis.

**LABEL, IN PART:** "Top Wave Brand California Mackerel."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 14, 1945. The Sardamack Fisheries, Wilmington, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the segregation and salvage, under the supervision of the Federal Security Agency, of that portion found fit for human consumption.

**9091. Adulteration of frozen pike fillets. U. S. v. 9 Cans of Frozen Pike Fillets. Default decree of condemnation and destruction. (F. D. C. No. 15917. Sample No. 17854-H.)**

**LIBEL FILED:** April 20, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 8, 1945, by the Distribution Terminal Warehouse, from Cleveland, Ohio.

**PRODUCT:** 9 25- or 20-pound cans of frozen pike fillets at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance.

**DISPOSITION:** April 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9092. Adulteration of tullibeeds. U. S. v. Morris Shapiro and Bob Shapiro (Shapiro Fisheries, Not Inc.). Pleas of guilty. Each defendant fined \$1,000. (F. D. C. No. 15557. Sample Nos. 40003-F, 40004-F.)**

**LIBEL FILED:** September 27, 1945, Northern District of Illinois, against Morris Shapiro and Bob Shapiro, trading as the Shapiro Fisheries, Not Inc., at Chicago, Ill.

**ALLEGED SHIPMENT:** On or about March 10, 1944, from Chicago, Ill., to Spirit Lake, Iowa.

**LABEL, IN PART:** (Portion) "Product of Canada."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** November 14, 1945. Pleas of guilty having been entered by both defendants, the court imposed a fine of \$1,000 against each of them.



**9093. Adulteration of frozen whiting and frozen pike fillets. U. S. v. 545 Boxes and 16 Boxes of Frozen Fish. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 15877, 15929. Sample Nos. 16821-H, 20459-H, 20471-H.)**

**LIBELS FILED:** April 5 and 17, 1945, District of Nebraska and Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about September 15, 1943, and February 12, 1945, by the Morris Fisheries, Inc., from Chicago, Ill.

**PRODUCT:** 545 15-pound boxes of frozen whiting at Omaha, Nebr., and 16 20-pound boxes of frozen pike fillets at Milwaukee, Wis.

**LABEL, IN PART:** (Portion) "Busalacchi Bros. Inc., Boston, Mass. Seakist Brand Fish."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the products consisted in whole or in part of putrid and decomposed substances.

**DISPOSITION:** On May 17, 1945, the American Community Stores Corporation, claimant for the 545 boxes, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law or destroyed, under the supervision of the Federal Security Agency. On May 24, 1945, no claimant having appeared for the 16 boxes, judgment of condemnation was entered and the product was ordered destroyed.

**9094. Adulteration of frozen whiting. U. S. v. 257 Boxes of Frozen Fish. Default decree of condemnation and destruction. (F. D. C. No. 15791. Sample No. 447-H.)**

**LIBEL FILED:** April 3, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about March 3, 1945, by Wilfong Bros., from Boston, Mass.

**PRODUCT:** 257 15-pound boxes of frozen fish at Atlanta, Ga.

**LABEL, IN PART:** "H&G Whiting. \* \* \* Busalacchi Bros., Inc., Boston, Mass. Seakist Brand Fish."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a putrid substance by reason of presence of putrid fish.

**DISPOSITION:** April 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9095. Adulteration of frozen whiting. U. S. v. 100 Boxes of Frozen Whiting. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as fertilizer. (F. D. C. No. 15793. Sample No. 339-H.)**

**LIBEL FILED:** On or about April 13, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about July 6, 1944, by the Cape Ann Fisheries, Inc., from Gloucester, Mass.

**PRODUCT:** 100 15-pound boxes of frozen whiting at Jacksonville, Fla.

**LABEL, IN PART:** "Fresh Frozen Cape Ann Brand \* \* \* Scaled H & G Whiting."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** May 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On May 28, 1945, an amended decree was entered ordering the product delivered to a Federal institution, for use as fertilizer.

## FRUITS AND VEGETABLES\*

### FRUITS AND FRUIT PRODUCTS

**9096. Adulteration of apples. U. S. v. 189 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15330. Sample No. 86447-F.)**

**LIBEL FILED:** On or about January 3, 1945, Northern District of Illinois.

\*See also Nos. 9005, 9007, 9008.

**ALLEGED SHIPMENT:** On or about October 4, 1944, by J. L. Willmeng & Son, from Benton Harbor, Mich.

**PRODUCT:** 189 bushels of apples at Chicago, Ill. Examination showed that the apples bore spray residue containing excessive lead.

**LABEL, IN PART:** "King Apples."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** January 5, 1945. Gordon Willmeng, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be peeled for pie apples, under the supervision of the Food and Drug Administration.

**9097. Adulteration of apple butter. U. S. v. California Preserving Co. Plea of guilty. Fine, \$1,000. (F. D. C. No. 15549. Sample Nos. 71058-F, 74233-F.)**

**INDICTMENT FILED:** October 3, 1945, Southern District of California, against the California Preserving Co., a corporation, Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about January 18 and September 12, 1944, from the State of California into the States of Oregon and Texas.

**LABEL, IN PART:** "Catalina Brand Pure Apple Buttter."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the article failed to conform to the prescribed definition and standard of identity, since it had not been concentrated by heat to such point that the soluble solids content of the finished product was not less than 43 percent.

**DISPOSITION:** October 16, 1945. A plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$500 on each of the 2 counts.

**9098. Misbranding of dehydrated applesauce. U. S. v. 5 Cases of Dehydrated Applesauce. Default decree of condemnation. Product ordered delivered to a charitable or public institution. (F. D. C. No. 15817. Sample No. 27425-H.)**

**LIBEL FILED:** March 29, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about December 14, 1944, by the Aldama Products Co., from Los Angeles, Calif.

**PRODUCT:** 5 cases, each containing 24 packages, of dehydrated applesauce at Portland, Oreg.

**LABEL, IN PART:** "E-Z Sauce Makes Delicious Apple Sauce Dehydrated Apples Prepared With Sulphur Dioxide Net Weight 3½ Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statements appearing on the card enclosed with the shipping case, "No Points Needed \* \* \* Apple Sauce One Quart of Apple Sauce from 1 Pkg. E. Z. Sauce (3½ Ozs.)," and the label statements, "E-Z Sauce Makes Delicious Apple Sauce," were misleading in that they implied that the product was a complete applesauce mix containing sugar as well as apple, whereas the purchasers must supply sugar, which requires points; and, Section 403 (f), the common or usual name of the product, "Dehydrated Apples," the net weight statement, and the statement of added sulfur dioxide, required to appear on the label, were not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since they appeared in print so small as to be practically illegible.

**DISPOSITION:** May 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable or public institution.

**9099. Adulteration and misbranding of frozen cherries. U. S. v. Sound Fruit Growers Association. Plea of nolo contendere. Fine, \$150 and costs. (F. D. C. No. 15516. Sample No. 61949-F.)**

**INFORMATION FILED:** November 16, 1945, Western District of Washington, against the Sound Fruit Growers Association, a partnership, Sumner, Wash.

**ALLEGED SHIPMENT:** On or about August 1, 1944, from Tacoma, Wash., into the State of Mississippi.



**PRODUCT:** Samples of this product were found to contain an average of 7.5 pits per 20 ounces.

**LABEL, IN PART:** "R. S. P. Cherries."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), partially pitted cherries had been substituted for red sour pitted cherries.

Misbranding, Section 403 (a), the label statement, "R. S. P. Cherries," was false and misleading since it represented and suggested that the product consisted of red sour pitted cherries.

**DISPOSITION:** April 9, 1946. A plea of nolo contendere having been entered, a fine of \$150 and costs was imposed.

**9100. Adulteration of frozen cherries. U. S. v. 18 Cans of Frozen Cherries. Default decree of condemnation and destruction.** (F. D. C. No. 16008. Sample No. 32052-H.)

**LIBEL FILED:** May 5, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about February 10, 1945, by Van de Kamp, from Chicago, Ill.

**PRODUCT:** 18 50-pound cans of frozen cherries at Los Angeles, Calif.

**LABEL, IN PART:** "Reynolds Bros. Sturgeon Bay."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food since it was contaminated with refrigerator brine which was not intended for food use and which is not ordinarily prepared and handled under conditions befitting a food ingredient.

**DISPOSITION:** May 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9101. Adulteration of dates. U. S. v. 68 Lugs of Dates. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16244. Sample Nos. 14611-H, 14612-H.)

**LIBEL FILED:** May 25, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about January 31, 1945, from the State of California into the State of Michigan.

**PRODUCT:** 60 50-pound lugs and 8 15-pound lugs of dates at Detroit, Mich., in the possession of the Detroit Harbor Terminals. The product was stored under insanitary conditions after shipment. Rodent pellets were observed on the lugs, and examination showed that the product contained rodent excreta and rodent-chewed dates.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 12, 1945. The Detroit Harbor Terminals, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9102. Adulteration of dates. U. S. v. 214 Boxes of Dates (and 2 other seizure actions against dates). Default decrees of destruction.** (F. D. C. Nos. 15818 to 15821, incl., 15856, 15974. Sample Nos. 20179-H, 20183-H, 21018-H.)

**LIBELS FILED:** Between the approximate dates of March 31 and June 5, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about February 27 and March 13, 1945, by T. M. Duche and Sons, Inc., from New York, N. Y.

**PRODUCT:** 248 70-pound boxes of dates at Kansas City, Mo.

**LABEL, IN PART:** "Sphinx Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, beetles, larvae, insect excreta, and dirt.

**DISPOSITION:** September 24 and October 18, 1945. No claimant having appeared, judgments were entered ordering the product destroyed.

**9103. Adulteration of figs. U. S. v. 10 Cartons of Figs. Default decree of condemnation and destruction. (F. D. C. No. 15624. Sample No. 29265-H.)**

**LIBEL FILED:** March 14, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about February 17, 1945, by F. E. Hadley and Sons, from Merced, Calif.

**PRODUCT:** 10 25-pound cartons of Figs at Portland, Oreg.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect-infested and sour figs.

**DISPOSITION:** July 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9104. Adulteration and misbranding of lingonberry preserves. U. S. v. 22 Cases of Lingonberry Preserves. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 15860. Sample No. 28458-H.)**

**LIBEL FILED:** May 9, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 18, 1945, by Farmersfriend Products, Inc., from New York, N. Y.

**PRODUCT:** 22 cases, each containing 24 1-pound jars of lingonberry preserves at Seattle, Wash. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Mrs. Bauer's Brand Pure Lingonberry Preisselbeeren \* \* \* 1 Lb."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of lingonberry, sugar, corn sirup, and pectin had been substituted in whole or in part for pure lingonberry.

Misbranding, Section 403 (a), the name "Pure Lingonberry" was false and misleading; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution.

**9105. Adulteration of Greek olives. U. S. v. 34 Barrels of Greek Olives. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16233. Sample No. 29609-H.)**

**LIBEL FILED:** May 24, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about May 24, 1945, by Brucia and Co., from Woodland, Calif.

**PRODUCT:** 34 95-pound barrels of Greek olives at New Orleans, La.

**LABEL, IN PART:** "Greeks \* \* \* Mammoth Extra Large U. T."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of filthy and decomposed substances by reason of the presence of rodent hairs and insects and of moldy olives; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 13, 1945. Brucia and Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the segregation and destruction of the unfit portion and the washing of the remainder, under supervision of the Food and Drug Administration.

**9106. Adulteration of Greek olives. U. S. v. 130 Kegs of Greek Olives. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16343. Sample No. 5835-H.)**

**LIBEL FILED:** June 7, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 7, 1945, by the Harcourt Greene Co., from Fair Oaks, Calif.

**PRODUCT:** 130 kegs of Greek olives at New York, N. Y.

**LABEL, IN PART:** "Medium Greek Olives Fair Oaks Fruit Corp. Fair Oaks Calif."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments.

**DISPOSITION:** July 11, 1945. The Fair Oaks Fruit Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be washed, rebrined, and repacked under the supervision of the Food and Drug Administration.

**9107. Adulteration of dry salt-cured olives. U. S. v. 52 Kegs of Salt Cured Olives. Default decree of condemnation and destruction. (F. D. C. No. 16307. Sample No. 29616-H.)**

**LIBEL FILED:** June 1, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 5, 1945, by Luigi Lotorto, from Stockton, Calif.

**PRODUCT:** 52 kegs, each containing 100 pounds, of dry salt-cured olives at New York, N. Y. Examination showed the presence of moldy olives.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9108. Misbranding of canned pears. U. S. v. 153 Cases of Canned Pears. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16025. Sample No. 29118-H.)**

**LIBEL FILED:** May 17, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about January 25, 1945, by the Starr Fruit Products Co., from East Portland, Oreg.

**PRODUCT:** 153 cases, each containing 24 29-ounce cans, of pears at Sacramento, Calif. The product had the general appearance of pear halves, rather than mixed pieces of irregular sizes and shapes.

**LABEL, IN PART:** "Success Quality Salad Pieces Bartlett Pears Mixed Pieces of Irregular Sizes and Shapes in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Mixed Pieces of Irregular Sizes and Shapes," was false and misleading as applied to canned pear halves; and, Section 403 (h) (1), the article purported to be canned pear halves, but its quality fell below the prescribed standard therefor in that all units of the article were not untrimmed or were so trimmed as to preserve normal shape, and the label failed to bear, in manner and form as specified by the regulations, a statement that the article was substandard.

**DISPOSITION:** August 6, 1945. Tiedemann & McMorran, San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9109. Adulteration of canned prunes. U. S. v. 154 Cases of Canned Prunes. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as animal feed. (F. D. C. No. 15978. Sample No. 28196-H.)**

**LIBEL FILED:** May 2, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about February 19, 1945, by the Paulus Brothers Packing Co., from Roseburg, Oreg.

**PRODUCT:** 154 cases, each containing 12 1-pound, 13-ounce jars, of prunes at Tacoma, Wash.

**LABEL, IN PART:** "Red Tag Oregon Prepared Sweet Prunes in Extra Heavy Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, insect fragments, and insect excreta.

**DISPOSITION:** July 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as animal feed.

**9110. Adulteration of dried prunes. U. S. v. 44 Boxes of Dried Prunes. Default decree of condemnation and destruction. (F. D. C. No. 15966. Sample No. 29536-H.)**

**LIBEL FILED:** April 25, 1945, District of Nevada.

**ALLEGED SHIPMENT:** On or about December 29, 1944, by the Albert Asher Co., from San Francisco, Calif.

**PRODUCT:** 44 25-pound boxes of dried prunes at Reno, Nev.

**LABEL, IN PART:** "Bon Ton Brand Santa Clara Prunes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs.

**DISPOSITION:** May 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9111. Adulteration of raisins. U. S. v. 42 Cartons of Raisins. Default decree of condemnation and destruction. (F. D. C. No. 16136. Sample No. 4338-H.)**

**LIBEL FILED:** May 15, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 12, 1944, by the Robert G. Bursk Co., from Philadelphia, Pa.

**PRODUCT:** 42 25-pound cartons of seedless raisins at Atlantic City, N. J. Examination showed that the product was undergoing fermentation.

**LABEL, IN PART:** "Sun Maid Bakery Type Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9112. Adulteration and misbranding of wine vinegar. U. S. v. 37 Cases, 87 Cases, and 67 Cases of Wine Vinegar. Default decree of condemnation and destruction. (F. D. C. No. 15844. Sample No. 16723-H.)**

**LIBEL FILED:** April 6, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 22, 1945, by Bertola and Co., from New York, N. Y.

**PRODUCT:** 37 cases, each containing 4 1-gallon bottles, 87 cases, each containing 12 1-quart bottles, and 67 cases, each containing 24 1-pint bottles, of wine vinegar at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially colored mixture of wine vinegar and acetic acid or distilled vinegar had been substituted in whole or in part for wine vinegar; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), acetic acid or distilled vinegar had been mixed or packed with the product so as to reduce its quality or strength, and artificial color had been mixed or packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the name "wine vinegar" was false and misleading as applied to an artificially colored mixture of wine vinegar and acetic acid or distilled vinegar.

**DISPOSITION:** June 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9113. Adulteration and misbranding of wine vinegar. U. S. v. 21 Cases of Wine Vinegar. Default decree of condemnation and destruction. (F. D. C. No. 16239. Sample No. 18023-H.)**

**LIBEL FILED:** June 5, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about February 2, 1944, by the Italian Importing Corporation, from New York, N. Y.

**PRODUCT:** 21 cases, each containing 12 1-quart bottles, of wine vinegar at Chicago, Ill.

**LABEL, IN PART:** "Muro Pure Wine Vinegar Made From Grapes Packed by Muro Imp. Co. Brooklyn, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for "Pure Wine Vinegar Made from Grapes," which the article was represented to be; and, Section 402 (b) (4), distilled vinegar or acetic acid had been



added to and mixed or packed with the article so as to reduce its quality or strength.

Misbranding, Section 403 (a), the label statement, "Pure Wine Vinegar Made from Grapes," was false and misleading as applied to a mixture of wine vinegar and distilled vinegar or acetic acid.

DISPOSITION: November 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### VEGETABLES

**9114. Adulteration of mung beans. U. S. v. 260 Bags of Mung Beans. Tried to the court. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15398. Sample No. 28508-H.)**

LIBEL FILED: March 3, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about November 29, 1944, by James Snelling, from Wichita, Kans.

PRODUCT: 260 100-pound bags of mung beans at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy beans.

DISPOSITION: March 29, 1946. The King Chong Lung Co., Seattle, Wash., having appeared as claimant and having filed an answer denying that the product was adulterated, the case came on for hearing before the court. At the conclusion of the testimony and the arguments of counsel, the court made its finding that the product was adulterated as alleged. Judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**9115. Misbranding of beans with pork and tomato sauce. U. S. v. 196 Cases of Beans with Pork and Tomato Sauce. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15794. Sample No. 2248-H.)**

LIBEL FILED: April 18, 1945, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about January 29, 1945, by the Foote Brothers Co., from Norfolk, Va.

PRODUCT: 196 cases, each containing 24 1-pound cans, of beans with pork and tomato sauce at Greenville, N. C.

LABEL, IN PART: (Cans) "McGrath's Beans with Pork and Tomato Sauce Packed by The H. J. McGrath Co. Baltimore, Md., U. S. A. McGrath's Champion Brand."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was food in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than "1 Lb.," the volume declared.

DISPOSITION: May 24, 1945. The H. J. McGrath Co., Baltimore, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of an officer designated by the Federal Security Agency.

**9116. Adulteration of canned corn. U. S. v. 93 Cases and 104 Cases of Canned Corn. Default decrees of forfeiture and destruction. (F. D. C. Nos. 15210, 16191. Sample Nos. 86077-F, 25424-H.)**

LIBELS FILED: February 7 and May 18, 1945, District of Idaho.

ALLEGED SHIPMENT: On or about October 27, 1944, by the Eddington Canning Co., from Murray and Springville, Utah.

PRODUCT: 93 cases and 104 cases, each containing 24 1-pound, 4-ounce cans, of corn of Twin Falls and Idaho Falls, Idaho, respectively.

LABEL IN PART: "Eddington's Utah Trail Golden Bantam Corn Golden Sweet Cream Style," or "Spring Kist Eddington's Crushed Style Golden Sweet Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worm fragments and insect fragments.

**DISPOSITION:** September 20, 1945. No claimant having appeared, judgments of forfeiture were entered and the product was ordered destroyed or delivered to a charitable institution, for use as animal feed.

**9117. Adulteration and misbranding of canned mushrooms. U. S. v. 1,700 Cases, and 298 Cases of Canned Mushrooms. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16301, 16302. Sample Nos. 29123-H, 29124-H.)**

**LIBELS FILED:** May 29 and 30, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 7, 1945, by J. B. Swayne and Son, from Kennett Square, Pa.

**PRODUCT:** 1,500 cases, each containing 24 8-ounce cans, and 498 cases, each containing 24 1-pound cans, of mushrooms at San Francisco, Calif. The product was short in drained weight, and it was packed in excessive brine. It was not fancy, as labeled, because of defects and excessive variation in size and, in addition, the 8-ounce size contained excessive stem material.

**LABEL, IN PART:** "Mushrooms Fancy Buttons Quaker State Brand Drained Net Weight 8 ozs. [or "1 Lb."]. A vignette depicted fancy button mushrooms.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), brine and button mushrooms that were not fancy, and a portion of which contained stem material, had been substituted in whole or in part for "Mushrooms Fancy Buttons," which the article was represented to be.

Misbranding, Section 403 (a), the label statement, "Mushrooms Fancy Buttons," and the vignette depicting fancy button mushrooms, were false and misleading; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statements, "Drained Net Weight 8 Ozs." and "Drained Net Weight 1 Lb.," were inaccurate.

**DISPOSITION:** June 5 and August 1, 1945. The United Food Supply Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law. It was relabeled.

**9118. Adulteration of dried mushrooms. U. S. v. 6 Cartons and 2 Bags of Dried Mushrooms. Tried to the court. Decree of condemnation and destruction. (F. D. C. Nos. 14545, 14546. Sample Nos. 86565-F, 86568-F.)**

**LIBEL FILED:** December 6, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** The 6 cartons were shipped on or about October 16, 1944, by Jim Brecka, from Rice Lake, Wis., and the 2 bags were shipped on or about October 30, 1944, by John F. Kalina, from Lonsdale, Minn.

**PRODUCT:** 6 26-pound cartons and 2 34-pound bags of dried mushrooms at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and maggots.

**DISPOSITION:** The Globus Food Products Co., claimant, having denied that the product was adulterated, the case came on for trial before the court on June 15, 1945. After hearing the evidence and arguments of counsel, the court denied claimant's motion to dismiss the libel and ordered that briefs be filed. After consideration of the briefs submitted by the parties, the court, on October 8, 1945, ordered that a decree of condemnation be entered, providing for the destruction of the product.

**9119. Adulteration of dried mushrooms. U. S. v. 21 Cartons of Dried Mushrooms. Default decree of condemnation and destruction. (F. D. C. No. 15971. Sample No. 29532-H.)**

**LIBEL FILED:** April 28, 1945, District of Nevada.

**ALLEGED SHIPMENT:** On or about January 30 and March 20, 1945, by the Gann Products Co., from Oakland, Calif.

**PRODUCT:** 21 cartons, each containing 2 cards of 12 bags each, of dried mushrooms at Reno, Nev.



LABEL, IN PART: "Gann's Dried Mushrooms."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs.

DISPOSITION: May 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

Nos. 9120 to 9125 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality fell below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

**9120. Misbranding of canned peas. U. S. v. 12 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 15828. Sample No. 3421-H.)**

LABEL FILED: On or about March 30, 1945, Western District of Virginia.

ALLEGED SHIPMENT: On or about February 12, 1945, by the Torsch Canning Co., Baltimore, Md.

PRODUCT: 12 cases, each containing 24 1-pound, 4-ounce cans, of peas at Roanoke, Va.

LABEL, IN PART: "Cow Boy Brand June Peas \* \* \* Grade C."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: July 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9121. Misbranding of canned peas. U. S. v. 355 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15953. Sample No. 18355-H.)**

LABEL FILED: April 21, 1945, Northern District of Iowa.

ALLEGED SHIPMENT: On or about November 4, 1944, by the Mineral Point Co-operative Canning Co., from Mineral Point, Wis.

PRODUCT: 355 cases, each containing 24 1-pound, 4-ounce cans, of peas at Fort Dodge, Iowa.

LABEL, IN PART: "Good Meal Brand Wisconsin Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was substandard.

DISPOSITION: May 19, 1945. The Mineral Point Co-operative Packers, Mineral Point, Wis., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9122. Misbranding of canned peas. U. S. v. 739 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13060. Sample No. 69705-F.)**

LABEL FILED: On or about August 1, 1944, Northern District of Texas.

ALLEGED SHIPMENT: On or about August 13, 1943, by the Waldo Canning Co., Waldo, Wis.

PRODUCT: 739 cases, each containing 24 1-pound, 4-ounce cans, of peas at Lubbock, Tex.

LABEL, IN PART: "Maplewood \* \* \* Wisconsin Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: November 20, 1944. The Waldo Canning Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9123. Misbranding of canned peas. U. S. v. 165 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16274. Sample No. 19146-H.)**

**LIBEL FILED:** June 2, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about September 29, 1944, by the Chippewa Canneries, from Stanley, Wis.

**PRODUCT:** 165 cases, each containing 24 1-pound, 4-ounce cans, of peas at Ottumwa, Iowa.

**LABEL, IN PART:** "Mayflower Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** June 12, 1945. The Western Grocer Co., Ottumwa, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9124. Misbranding of canned peas. U. S. v. 257 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16256. Sample No. 19147-H.)**

**LIBEL FILED:** May 29, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 12, 1944, by Smith Frozen Foods, from Lewiston, Idaho.

**PRODUCT:** 257 cases, each containing 24 1-pound, 4-ounce cans, of peas at Ottumwa, Iowa.

**LABEL, IN PART:** "Goblin Brand Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** June 12, 1945. The Western Grocer Co., Ottumwa, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9125. Misbranding of canned peas. U. S. v. 65 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 15371. Sample No. 5619-H.)**

**LIBEL FILED:** On or about March 20, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 2, 1944, by A. W. Feeser and Co., from Littlestown, Pa.

**PRODUCT:** 65 cases, each containing 24 1-pound, 4-ounce cans, of peas at Monmouth Junction, N. J.

**LABEL, IN PART:** "Keymar Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** March 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, conditioned that the labels be destroyed under the supervision of the Food and Drug Administration.

**9126. Adulteration of chick peas. U. S. v. 75 Bags of Chick Peas. Default decree of condemnation. Product ordered delivered to a public institution, for use as stock feed. (F. D. C. No. 15180. Sample No. 17406-H.)**

**LIBEL FILED:** February 2, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about December 14, 1945, by the Bissman Co., from Mansfield, Ohio.

**PRODUCT:** 75 110-pound bags of chick peas at Chicago, Ill.

**LABEL, IN PART:** "Garbanzo de Sinaloa \* \* \* Mexico."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect-damaged peas.



**DISPOSITION:** June 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. This order was amended on September 7, 1945, to permit the product to be delivered to a public institution, for use as stock feed.

**9127. Adulteration of canned sweet peppers. U. S. v. 150 Cases of Canned Sweet Peppers (and 2 other seizure actions against canned sweet peppers). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15840, 15841, 15874, 15906. Sample Nos. 18351-H, 20368-H, 26642-H to 26644-H, incl.)

**LIBELS FILED:** Between April 6 and 12, 1945, Northern Districts of Iowa and Oklahoma and District of Colorado.

**ALLEGED SHIPMENT:** Between the approximate dates of February 14 and 24, 1945, by the W. B. Schneider Pickle and Vinegar Co., from Kansas City, Mo.

**PRODUCT:** Canned sweet peppers. 150 cases at Tulsa, Okla., 49 cases at Sioux City, Iowa, and 447 cases at Denver, Colo. Examination of samples showed that the product had undergone or was undergoing active fermentation.

**LABEL, IN PART:** "Superior Fancy [or "Schneider's Superior Fancy"] \* \* \* Sweet Peppers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** Between April 23 and May 7, 1945, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9128. Adulteration of peperoncini (canned peppers). U. S. v. 100 Cases of Peperoncini. Default decree of condemnation and destruction.** (F. D. C. No. 16147. Sample No. 5827-H.)

**LIBEL FILED:** May 17, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 24, 1945, by the Encinal Terminals, from Fruitvale, Calif.

**PRODUCT:** 100 cases, each containing 24 1-pint jars, of peperoncini.

**LABEL, IN PART:** (Jars) "Lumbardo Brand Peperoncini Italian Style \* \* \* Galati Packing Co. San Jose, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of underprocessed, fermented, and decomposed peppers.

**DISPOSITION:** June 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9129. Adulteration of chili peppers. U. S. v. 134 Bags of Chili Peppers. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15656. Sample No. 31721-H.)

**LIBEL FILED:** March 21, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about February 9, 1945, by the Howard E. Ames Co., from Douglas, Ariz.

**PRODUCT:** 134 bags, each containing about 186 pounds, of chili peppers at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy peppers.

**DISPOSITION:** April 6, 1945. The C. B. Gentry Co., Los Angeles, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9130. Adulteration of chili peppers. U. S. v. 90 Bags of Chili Peppers. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15670. Sample No. 22637-H.)

**LIBEL FILED:** March 21, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about May 27, 1944, by P. H. Petry, from New York, N. Y.

**PRODUCT:** 90 bags, each containing about 54 pounds, of chili peppers at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** April 5, 1945. The David G. Evans Coffee Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law or destroyed under the supervision of the Food and Drug Administration.

**9131. Adulteration of chili peppers. U. S. v. 33 Bales and 98 Bales of Chili Peppers. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 15609, 15643. Sample Nos. 22634-H, 22635-H.)

**LIBELS FILED:** March 9 and 17, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about January 22 and February 3, 1944, by the Mexican Products Co., from Laredo, Tex.

**PRODUCT:** 131 500-pound bales of chili peppers at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect excreta.

**DISPOSITION:** April 5, 1945. The David G. Evans Coffee Co., St. Louis, Mo., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9132. Adulteration of canned sauerkraut. U. S. v. 74 Cases and 93 Cases Canned Kraut. Default decrees of condemnation and destruction.** (F. D. C. Nos. 16098, 16155. Sample Nos. 239-H, 241-H, 244-H.)

**LIBELS FILED:** May 4 and 21, 1945, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about March 23 and April 7, 1945, by and for L. P. Moser, from Mineral Springs and Charlotte, N. C.

**PRODUCT:** 74 cases and 93 cases, each containing 12 1-quart jars, of sauerkraut at Rock Hill and Gaffney, S. C. Examination showed that the article had undergone spoilage.

**LABEL, IN PART:** "One Quart Home Made Kraut."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 11 and 26, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9133. Adulteration of sauerkraut. U. S. v. 773 Cases of Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 16388. Sample No. 27397-H.)

**LIBEL FILED:** June 22, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about March 24, 1945, by the Milford Packing Co., from Milford, Del.

**PRODUCT:** 773 cases, each containing 12 1-quart jars, of sauerkraut at Portland, Oreg. The product was undergoing active fermentation.

**LABEL, IN PART:** "Leibo Brand Sauerkraut \* \* \* Packed by Leibowitz Pickle Products Brooklyn, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9134. Adulteration and misbranding of sauerkraut. U. S. v. 17 Cases, 69 Cases, and 119 Cases of Sauerkraut. Default decrees ordering that a portion of the product be delivered to public institutions and that the remainder be condemned and destroyed.** (F. D. C. Nos. 15982, 16194, 16740. Sample Nos. 12943-H, 13727-H, 13863-H.)

**LIBELS FILED:** Between April 30 and June 22, 1945, Northern and Southern Districts of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of March 28 and April 23, 1945, by the Kokomo Packing Co., from Kokomo, Ind.



**PRODUCT:** 17 cases, each containing 12 24-ounce jars, of sauerkraut at Cleveland, Ohio, and 69 cases and 119 cases, each containing 12 2-pound jars, of sauerkraut at Athens and Canton, Ohio, respectively. Examination showed that the jars contained less drained sauerkraut and more brine than jars of those sizes should contain. Because of the tendency of the product to disperse in the packing medium, the jars appeared to contain more sauerkraut than they did.

**LABEL, IN PART:** "Kokomo Brand \* \* \* Sauerkraut."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut, which the product was represented to be.

Misbranding, Section 403 (d), the container was so filled as to be misleading since the jars appeared to contain more sauerkraut than was actually the case.

**DISPOSITION:** Between May 26 and July 19, 1945, no claimant having appeared, judgments were entered ordering that portions of the product be delivered to public institutions and that the remainder be condemned and destroyed.

**9135. Adulteration of canned turnip greens. U. S. v. 822 Cases of Canned Turnip Greens. Default decree of condemnation and destruction.** (F. D. C. No. 15832. Sample Nos. 23922-H, 23923-H.)

**LIBEL FILED:** March 29, 1945, Middle District of Alabama.

**ALLEGED SHIPMENT:** On or about December 14, 1944, and January 16, 1945, by the G. L. Webster Co., Inc., and Taylor & Sledd, Inc., from Cheriton, Va.

**PRODUCT:** 822 cases, each containing 6 cans, of turnip greens, at Montgomery, Ala.

**LABEL, IN PART:** "Webster's Brand Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9136. Adulteration of canned spinach. U. S. v. 298 Cases of Canned Spinach (and 1 other seizure action against canned spinach). Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 15887, 15888. Sample Nos. 22025-H, 22915-H.)

**LIBELS FILED:** April 6, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about January 29, 1945, by the Appleby-Young Canning Co., from Johnson, Ark.

**PRODUCT:** 495 cases, each containing 6 6-pound, 2-ounce cans, of spinach at St. Louis, Mo.

**LABEL, IN PART:** "Hiwasse Brand Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 22, 1945. The Appleby-Young Canning Co., claimant, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

#### TOMATO PRODUCTS\*

**9137. Adulteration of tomato catsup. U. S. v. 147 Cases of Tomato Catsup. Default decree of condemnation and destruction.** (F. D. C. No. 15895. Sample No. 17350-H.)

**LIBEL FILED:** April 10, 1945, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about November 16, 1944, by the Fettig Canning Corporation, from Elwood, Ind.

**PRODUCT:** 147 cases, each containing 24 14-ounce bottles, of tomato catsup, at Milwaukee, Wis.

**LABEL, IN PART:** (Bottle) "Vine Ripe Tomato Catsup Made From Fresh Ripe Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

\*See also No. 9115.

**DISPOSITION:** May 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9138. Adulteration of canned tomato juice. U. S. v. 379 Cases of Canned Tomato Juice. Default decree of condemnation. Product ordered destroyed and the cans salvaged. (F. D. C. No. 16120. Sample No. 3040-H.)**

**LIBEL FILED:** May 7, 1945, District of Columbia.

**ALLEGED SHIPMENT:** On or about February 23, 1945, by the Gervas Canning Co., from Fredonia, N. Y.

**PRODUCT:** 379 cases, each containing 6 No. 10 cans, of tomato juice at Washington, D. C.

**LABEL, IN PART:** "Sunny Dawn Grade A Fancy Tomato Juice \* \* \* Distributed By Table Products Company Oakland, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed and the cans salvaged.

**9139. Adulteration and misbranding of tomato sauce. U. S. v. 254 Cases and 499 Cases of Tomato Sauce. Tried to the court. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15176. Sample Nos. 96915-F, 96916-F.)**

**LIBEL FILED:** January 31, 1945, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about October 17 and November 22, 1944, by the Uddo and Taormina Co., from Crystal Springs, Miss.

**PRODUCT:** 753 cases, each containing 48 10-ounce cans, of tomato sauce at Helena, Ark.

**LABEL, IN PART:** "Baby Brand Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402(b) (2), an unconcentrated, or a slightly concentrated, unspiced, comminuted tomato liquid with added salt had been substituted in whole or in part for tomato sauce, an article which is understood to be a spiced, comminuted tomato product, more concentrated than was this article.

Misbranding, Section 403(a), the label statement "Tomato Sauce" was false and misleading as applied to an unconcentrated, or slightly concentrated, comminuted tomato liquid with added salt.

**DISPOSITION:** The Uddo Taormina Co., claimant, having filed an answer denying that the product was adulterated or misbranded, the case came on for trial before the court. After consideration of the evidence and arguments of counsel on December 21, 1945, the following memorandum opinion was handed down:

**LEMLEY, District Judge:** "This case arises under the Federal Food, Drug, and Cosmetic Act of June 25, 1938, and more particularly under those provisions of the Act prohibiting the introduction, or delivery for, introduction into interstate commerce of any food that is adulterated or misbranded, and for seizure thereof. 21 U. S. C. A. Secs. 331, 334, 342, and 343.

"The United States filed an information herein for the condemnation of two lots of 254 and 499 cases, respectively, containing 48 ten ounce cans each of a product labeled, in part, 'Baby Brand Tomato Sauce,' and seized the same pending this litigation.

"It was alleged in the information that the cases in question were in the possession of the Interstate Grocer Company, of Helena, Arkansas, having been shipped to said company in interstate commerce from Crystal Springs, Mississippi, by Uddo & Taormina Company, of that point.

"The information further alleged that the article was adulterated in violation of Sec. 342 (b) (2), Title 21, U. S. C. A., in that an unconcentrated or a slightly concentrated unspiced tomato liquid with added salt had been substituted for tomato sauce, 'an article understood to be a spiced comminuted tomato product which is more concentrated than this article.'



"It was further alleged that the product was misbranded in violation of Sec. 343 (a), Title 21, U. S. C. A., 'in that the label statement "Tomato Sauce" is false and misleading as applied to an unconcentrated or slightly concentrated comminuted tomato liquid with added salt.'

"The Uddo & Taormina Company intervened and filed an answer herein claiming ownership of the goods, and denying that the seized article was adulterated or misbranded in violation of the statute.

"The case was tried in the Court and has been submitted on oral argument and written briefs.

"The charge of adulteration was ignored throughout the trial, and was not referred to in oral argument or mentioned in the briefs; so we take it that it has been abandoned.

"The Act prohibiting the introduction into interstate commerce of any food which has been misbranded, provides, in part, that 'a food shall be deemed to be misbranded if its labeling is false or misleading in any particular.'

"It is the contention of the Government that the seized product is misbranded 'Tomato Sauce' in that it is not tomato sauce, but something entirely different. The Government contends that tomato sauce is a spiced concentrated tomato product, containing at least 8.37% of salt-free tomato solids, whereas the article under consideration is unspiced and contains only 6.5% of salt-free tomato solids. It is conceded that no regulation has been promulgated by the Administrator, establishing and fixing any definition and standard of identity, or quality, for tomato sauce, as authorized by law, but it is contended that tomato sauce is generally understood by the trade and consuming public throughout the country to be a spiced, concentrated tomato product, containing at least 8.37% of salt-free tomato solids, and that the public would be misled and deceived by the brand of 'Tomato Sauce' on an unspiced product containing less than that per cent of such solids.

"The claimant bases its contention that that goods are not misbranded on the proposition that it was a pioneer in the manufacture of tomato sauce in America, having canned the product under consideration and labeled it as tomato sauce for more than thirty years, during all of which period it was sold and distributed in the trade territory of Louisiana, Mississippi, Arkansas, and Western Tennessee, and there accepted as tomato sauce.

"It was stipulated by the parties that the goods moved in interstate commerce as was alleged in the information.

"The product under consideration is processed by the claimant, Uddo & Taormina Company, at Crystal Springs, Copiah County, Mississippi. Copiah County is in an old tomato raising section. The founder of the company, Mr. R. Raspanti, who testified in the case and whose testimony is hereinafter referred to in detail, came to Crystal Springs in 1914 and established a cannery, which has been in operation ever since.

"The tomatoes are brought into the plant directly from the fields by truck and wagon, and in field boxes weighing from fifty to seventy pounds. They are unloaded by hand into a chute, and moved by gravity into a washer. In the washer are revolving plates and flowing water. After being washed, the tomatoes are carried by means of an elevator chain up to, and laid upon, a sorting table with a movable top. There the tomatoes are sorted by women standing on both sides of the table. Their duty is to cull out the imperfect tomatoes, and to remove the stems and cores from those that are usable. The tomatoes move from the sorting table to a mill, or crusher, equipped with revolving steel plates by which they are thoroughly crushed. From thence the product is pumped through a pipe into a cooker where it is cooked from twenty-five to forty minutes, dependent upon the water content of the tomatoes, which content varies with the seasons. After cooking, it is pumped through a pipe into a finishing machine, which removes the skins and extracts the seeds, and thence through another pipe to a filler where the cans are filled mechanically. The filled cans are then sealed and moved to a sterilizing vat where they are boiled in water for approximately fifteen minutes, after which they are packed for shipment.

"Six cans of the seized article were withdrawn and delivered to a chemist for analysis. The analysis disclosed that the contents of the can was a tomato product of approximately 6.5% salt-free tomato solids, containing no spice or other condiment. It is conceded by all parties that this analysis is correct.



"As stated, it was conceded by the libelant that no regulations had been promulgated establishing any definition and standard of identity or quality for tomato sauce. Regulations of the Administrator defining tomato juice, tomato puree, and tomato paste, however, were introduced in evidence. These were of some value in aiding the Court to reach its conclusion in the case.

"It appears from these regulations that tomato juice is an unconcentrated liquid, extracted from mature tomatoes, with or without scalding, in the extraction of which heat may be applied by any method which does not add water thereto. Salt may be added. The regulation prescribes no minimum or maximum percentage of salt-free tomato solids content for tomato juice, but according to the testimony of Mr. John T. Knowles, of Libby, McNeill & Libby, canners of various products, hereinafter referred to, tomato juice should contain a per cent of such solids ranging from a minimum of  $4\frac{1}{2}\%$  to a maximum of from  $7\frac{1}{2}\%$  to  $8\%$ .

"Tomato puree, otherwise known as tomato pulp, according to the regulations, is a concentrated tomato product which may be seasoned with salt, but not otherwise, and which contains not less than  $8.37\%$  but less than  $25\%$  of salt-free tomato solids.

"And tomato paste is defined as a highly concentrated product which may at the option of the processor be seasoned with salt, spices or flavoring, but which contains not less than  $25\%$  of salt-free tomato solids.

"The libelant, in order to sustain its contention that the product was misbranded, placed nine expert witnesses on the stand, and offered in evidence certain cans of standard brands of tomato sauce, and a number of labels from other cans. Some of the cans were labeled 'Tomato Sauce' and some of them 'Tomato Sauce Spanish Style.' A can of 'Baby Brand Tomato Sauce' and certain cans of other brands were opened and exhibited to the Court, by whom they were tested by pouring and tasting.

"The expert witnesses were representatives from various occupations and professions having dealings with tomato sauce. We will briefly review their testimony:

"Samuel Alfend, a chemist of the Food and Drug Administration with twenty-two years' experience, defined tomato sauce as a spiced, concentrated tomato product with a salt-free tomato solids content of not less than  $8.37\%$ . He stated that it is a tomato puree with spices added. He testified that he had analysed approximately ten well-known commercial brands of tomato sauce and found spices in all of them, and that all were materially higher in tomato solids content than the seized product. Eight of these brands are hereinafter referred to more specifically.

"Dr. Robert A. Osborne, a chemist in the Food Division, Beverage Section, of the Food and Drug Administration testified that it was a part of his duty to make investigations of tomato juices, sauces and other products; that he had analyzed 'Baby Brand Tomato Sauce' and would class it as a beverage rather than a sauce.

"John T. Knowles, a chemist of twenty-two years' experience in charge of the general laboratory of Libby, McNeill & Libby, manufacturers of food products, of Chicago, Illinois, testified that a consumer expects a tomato sauce to be a heavy-bodied product with spices, salt, and sometimes sugar, added. He stated that it should have a body of more than  $8.37\%$  of salt-free tomato solids. He defined 'Spanish Style Tomato Sauce' as a somewhat hotter sauce than ordinary tomato sauce, and stated that in some of the Spanish Style sauces finger peppers rather than other peppers were used, because of the fact that they were hotter.

"Edward Fox, a Ohio manufacturer of tomato products, with twenty-seven years' experience, defined tomato sauce as a tomato puree plus sugar, salt and spices, with a content of not less than  $8.37\%$  of salt-free tomato solids.

"A. W. Carswell, plant manager of the Loudon Packing Company, Terre Haute, Indiana, with twenty-four years' experience in the canning business, gave the same definition of tomato sauce as that given by Mr. Fox.

"A. A. Mayhugh, buyer and sales manager for Silbernagel Wholesale Grocer Company, Pine Bluff, Arkansas, with twenty-seven years' experience in the wholesale grocery business, during all of which time he handled tomato products, defined tomato sauce as a product of at least the consistency of puree ( $8.37\%$  solids) with spice added.



"Mrs. Philip H. Chauvin, a housewife of Little Rock, Arkansas, for sixteen years in charge of the Little Rock High School cafeteria, and recently director of the feeding units of the Arkansas Ordnance Plant at Jacksonville, Arkansas, testified that in purchasing tomato sauce she expected a product of reasonably thick consistency, flavored with spices, salt, and probably sugar, so that, for cooking purposes, nothing need be added; and that she did not consider an unspiced tomato product with a consistency considerably less than that of puree, a tomato sauce, and would not buy it as such.

"On cross-examination, recipes for tomato sauce taken from the 'Good Housekeeping Cook Book,' 1942 edition, published by Farrar & Rhinehart, 'The Joy of Cooking,' published by the Bobbs-Merrill Company, 1936, and 'Soups, Sauces & Gravies,' published by the J. B. Lippincott Company in 1939, were read to the witness, and she was questioned with respect thereto. These recipes provided for mixtures containing varying amounts of spices, all the way from 'a speck' of pepper to a considerable amount of onions, celery, parsley, peppers, and other ingredients; the salt-free tomato solids content of which mixtures, however, appeared to be much below that of 'tomato sauce' as defined by the expert witnesses for the libellant. The witness stated in effect that the sauces referred to in these cook books were distinctly home products, made from ingredients available to the housewife, and were not comparable to the canned tomato sauces sold generally on the market.

"Robert A. Dare, a chef with twenty years' experience, who had also acted as buyer for the Service Club at Camp Robinson, Arkansas, defined tomato sauce as a puree with spices added.

"Mrs. James Keatts, a lady in charge of the Tea Room of the Gus Blass Department Store, of Little Rock, Arkansas, for the past two years, whose qualifications as an expert were admitted by the claimant, testified that in her opinion tomato sauce is thickened tomatoes, seasoned and ready to use. She stated that it should be seasoned with spices and fats, and that her recipe called for onions also. She said that a commercial tomato product containing no spices and below the standard of ordinary tomato puree, would not be called tomato sauce by her.

"As stated, a can of 'Baby Brand Tomato Sauce' was opened in the presence of the Court, who poured a part of the contents into a glass and tasted it. Cans labeled 'Del Monte Brand Spanish Style Tomato Sauce,' packed by the California Packing Corporation, San Francisco, California, 'Sunny South Spanish Style Tomato Sauce,' packed by Lee Aiken & Sons, McAllen, Texas, and 'Sacramento Tomato Sauce,' packed by Berout Richards Packing Company, of Sacramento, California, were likewise opened in the presence of and tasted and examined by the Court. Two of these, namely, the *Sacramento* and *Del Monte* brands, were referred to by Mr. Alfend as having been analyzed by him, and according to his testimony the *Sacramento* contained 9.7% and the *Del Monte* 10% of salt-free tomato solids. The Court found from his examination that the *Baby Brand* product was wholesome, unspiced, but considerably less concentrated and thinner than the other three brands just referred to. The latter brands were highly spiced. It will have been noted that the *Del Monte* and *Sunny South* brands were labeled 'Spanish Style.' The *Sacramento* was not so labeled, but the word 'Savory' appears in small letters on the label between the words 'Sacramento' and 'Tomato Sauce.' The *Sunny South* label was not introduced in evidence. The *Del Monte* label has on it also the following words: 'Del Monte Tomato Sauce—a unique cooking sauce, blended especially for cooking uses from vine-ripened tomatoes, salt, peppers and spices, according to the original Del Monte recipe.' The *Sacramento* label has upon it the following additional language: 'made from whole red ripe tomatoes, with added salt, onions, green peppers, chili pepper, garlic and cayenne.'

"In addition to the cans above mentioned, one unopened can of 'Libby's Tomato Sauce,' manufactured by Libby, McNeill & Libby, of San Francisco, California, was introduced in evidence. This is labeled: 'Ingredients: tomato puree, salt, dextrose and spices.'

"There were also introduced in evidence labels from cans of:

'Monarch Spanish Style Tomato Sauce,' manufactured by Reid, Murdoch & Co., Chicago, Ill., and described as 'made from whole ripe tomatoes with salt, pepper and spices';

'All Good Tomato Sauce Spanish Style,' described as 'blended from vine-ripened tomatoes, salt, pepper and spices,' and canned by F. H. Ball & Co., Oakland, Calif. ;



'Bestex Brand Tomato Sauce Spanish Style,' packed by Harlingen Canning Co., of Harlingen, Texas, and described on the label as 'made from whole tomatoes with added pepper, salt, cayenne, paprika, onion and garlic';  
'Can-D-Lite Brand Spanish Style Tomato Sauce,' packed by Su Mar Foods, Inc., Chicago, Illinois, and described as 'made from ripe tomatoes, salt and spices';  
'Topmost Spanish Style Tomato Sauce,' distributed by General Grocer Co., of St. Louis, Mo., and labeled as composed of 'tomato puree, salt, green peppers, onions, garlic, spices';  
'Lady Luck Spanish Style Tomato Sauce,' described on the label as 'with salt, pepper and spices,' and canned by Oakland Canning Company, Oakland, California, for United Food Products Co., San Francisco, California;  
'Hunt's Supreme Quality Spanish Style Tomato Sauce,' packed by Hunt Brothers Packing Company, San Francisco, California, and described as 'made from whole ripe tomatoes, salt, sugar, pepper and spices added'; and  
'Hunt's Supreme Quality *Fancy* Spanish Style Tomato Sauce,' packed by the same company and described in like manner.

"Mr. Alfend analyzed six of these last mentioned brands and found that they contained the following percentages of salt-free tomato solids:

Monarch-----	13.1 %
Can-D-Lite-----	9.4 %
Topmost-----	8.8 %
Lady Luck-----	9.5 %
Hunt's Supreme Quality-----	10.2 %
Bestex-----	8.4 %

"No analysis was made of the products labeled 'Hunt's Supreme Quality *Fancy* Spanish Style Tomato Sauce,' and 'All Good Tomato Sauce Spanish Style.'

"Four witnesses testified on behalf of the claimant.

"R. Raspanti, a partner in the firm of Uddo & Taormina Company, claimant herein, testified that he was born in Palermo, Sicily; that he came to this country in 1913, and in 1914 established the canning factory at Crystal Springs, Mississippi, now owned by the claimant; that he has personally operated the cannery for the past thirteen years; that he thinks he was the first canner of tomato sauce in America; that his father operated a cannery in Palermo, using practically the same process and producing practically the same article as that produced by him, and that as a boy he learned the canning business while working in his father's plant; that his father's product was unspiced just as is his; that throughout the years a part of his pack has had the same consistency as that manufactured by his father, and a part a greater consistency; that he called the product 'tomato sauce' when he came from the old country and he continued to do so for two or three years after beginning business, until he saw that 'the trade was confused'; some of which would want tomato paste, others tomato puree, and some tomato sauce; so he changed the labels several times, all the while producing the same product but giving it whatsoever name the trade desired. At the same time, however, as we understand his testimony, a part of his output was labeled tomato sauce. He stated that he continued to label some of his cans tomato puree and tomato paste until the Food and Drug Administration promulgated certain standards for puree and paste, at which time he discontinued the use of those terms, and from thence down to the present has labeled all of his output tomato sauce; that for two seasons he added spices to a part of his pack and labeled it 'Tomato Sauce Spanish Style,' but he did not find it profitable and discontinued it; that in his opinion the seized product is plain tomato sauce, and that 'Tomato Sauce Spanish Style' is tomato sauce with spices added; that 99% of his product is sold in Arkansas, Louisiana, Mississippi, and Western Tennessee; that at different periods he has marketed it in four and one-half, eight- and ten-ounce cans; that he estimates he has sold over 100,000,000 cans in these four states since he has been in business; that he has had no complaints, has sold all he could produce, and that the product has been accepted by the trade as tomato sauce.

"The witness testified further that he was familiar with cooking, liked to cook and knew a cook's viewpoint with respect to his product; that many cooks preferred *Baby Brand* to spiced brands, for the reason that spices could be added to suit the taste; that, for instance, some desire a spaghetti sauce without pepper, others with a small amount of salt, and some with more; that his 'sauce' forms a foundation upon which any type of sauce can be built.

"A. Glorioso, another witness on behalf of the claimant, stated that he owned a cannery at Crystal Springs, Mississippi, known as the Mississippi Canning Company, and also canneries in several other states, and at one time



had owned another plant in Mississippi; that he had been in the canning business since 1915; that he, like Mr. Raspanti, was born in Palermo, Sicily; that for many years he was a competitor of the latter in Crystal Springs, manufacturing at that point an unspiced tomato product, similar to *Baby Brand*, the production of which has been discontinued; that his product, however, did not contain more than from 5.5% to 6% of salt-free tomato solids; that he sold practically all of this product, which he described as 'tomato sauce,' in New Orleans, in Mississippi, and in South America, and that his specialty was the South American business; that when he was actively canning this article he sold a yearly average of from ten to twelve million cans, and never had any complaints; that there was a time when the product was called paste, but it was not a paste; that in Mississippi now no one calls it sauce or puree, but that ninety-nine out of one hundred people call it tomato paste; that the consistency of the product is regulated by heating; that the longer it is on the fire the thicker it becomes; that everyone does not like a thickened tomato product, but some prefer it thin; that the product is, in his opinion, a sauce, and is spiced by the flavor of its tomato content; that as a natural sauce it has an advantage over those spiced with peppers, etc., in that it can be used in preparing soup, whereas garlic, one of the ordinary constituents of the spiced product, is never used in soup, and that it can be used as a dressing for spaghetitis and rices by those who prefer the tomato taste to a spiced flavor.

"In response to a question as to why many of the canners use 'Spanish Style' in describing their tomato sauce, the witness stated that it was because sweet peppers or hot peppers had been added; that the tendency is to add a certain amount of pepper and spice; and that one can easily change a tomato puree to a sauce by adding a slight amount of cayenne pepper, which would make the spiced puree a 'Spanish Style' sauce.

"Allein Beall, Jr., testified that he had been in the food brokerage business, operating at Helena, Arkansas, and Clarksdale, Mississippi, for twenty-five years; that he has sold the *Baby Brand* line for the last eight or ten years; and handled the shipment seized in this action; that 'Baby Brand Tomato Sauce' was branded 'Puree' up until five or six years ago, but since then has been branded 'Tomato Sauce,' and has been so accepted by wholesalers in his area; and that he has had no complaint on account of lack of concentration or spices. He was asked by counsel for claimant to approximate how many cases of the product he had sold since he had been handling it. He stated that as puree and sauce he had probably sold all told 125,000 cases of 48 cans each, and that if it were available he could sell a large amount of the product at this time.

"William Roy Glover testified that he was a member of the firm of Glover & Wilson, food brokers, of Little Rock, Arkansas, and had been in that business eighteen years; that he had handled 'Baby Brand Tomato Sauce' for a period of from twelve to fifteen years; that he estimates that his annual sales of the brand would run anywhere from three to six thousand cases; that his trade territory is all of Arkansas except the extreme eastern portion, which is included in the Memphis and Helena areas; that he has never had any complaints from anyone as to the quality, identity or nature of 'Baby Brand Tomato Sauce'; that since the seizure in this case he has, at the request of counsel for claimant, made specific inquiry of four retail dealers as to whether the trade accepts this product as tomato sauce, and has been assured by all four of these dealers that such is the case; that, in fact, the dealers wanted to know when they could get more, and one of them said that it had consumer acceptance 'just like Arm & Hammer Soda'; that he had also handled a line of spiced tomato sauces, but that the trade accepted *Baby Brand* ten to one over the other sauces, and that if it were possible to get substantial quantities of it at the present time, he could readily sell it; that the people with whom he has dealt 'bought Baby Brand Tomato Sauce for what it is, namely, and unspiced, slightly concentrated tomato sauce.' When asked upon cross-examination whether he was sure that this product had been sold on the market as tomato sauce for the past twelve years, he stated that he knew definitely that it had been on the market for six or seven years in ten-ounce cans similar to those seized; and he stated further that some time back there was a 'Baby Brand Tomato Sauce' which had spices in it, and which was sold by the same company in similar cans and labeled 'Spanish Style.'



"In our opinion, the proof on the part of the libelant clearly sustains its contention that the seized article is misbranded. There seems to be no question but that dealers in, and consumers of, tomato products generally throughout the United States consider tomato sauce to be a spiced product containing not less than 8.37% of salt-free tomato solids. This has been established to our satisfaction not only by the testimony of the expert witnesses (ranging all the way from housewives to chemists and manufacturers of tomato products) who testified for the libelant and who uniformly so defined tomato sauce, but also by the cans, and labels from cans, of standard brands of tomato sauce which have been introduced in evidence.

"The seized article fails to meet the requirements of tomato sauce in two particulars: it is not spiced, and it contains but 6.5% of salt-free tomato solids.

"With respect to its being unspiced, it is significant that of thirteen brands of tomato sauce introduced in evidence herein, only one—the seized product—was unspiced. It is true that A. Glorioso, one of claimant's witnesses, testified that at one time he manufactured a so-called unspiced tomato sauce in Mississippi, but the proof shows that he is no longer doing so.

"In our opinion, the seized product is not a sauce at all, as that term is generally used. Sauce has been defined as 'a condiment or composition of condiments and appetizing ingredients eaten with food as a relish; esp., a dressing for meat, fish, puddings, etc.'; and a condiment as 'something used to give a relish to food, and to gratify the taste; usually, a pungent and appetizing substance, as pepper or mustard; seasoning.' Webster's New International Dictionary, Second Edition.

"Stress has been laid by claimant on the fact that most of the brands offered in evidence were labeled '*Spanish Style* Tomato Sauce,' and an inference is drawn that there are two kinds of tomato sauce, plain or unspiced, and *Spanish Style* or spiced. It is true that most of the brands were labeled '*Spanish Style*,' but two of the brands containing spices were not so labeled, and it is apparent from the testimony of various expert witnesses in the case that the words '*Spanish Style*' merely constitute an adjective phrase conveying the idea that the sauce is heavily spiced.

"It may be argued that the objection to the goods on account of their not being spiced is a rather technical one, and that since no definite standard of identity or quality has been fixed, they should not be condemned on that account, especially since the label does not represent that the product is spiced, but, on the other hand, that it is 'made from whole tomatoes.' If this point were conceded, the claimant would not, in our judgment, be materially aided thereby, because it is also confronted with a deficiency in tomato solids content, which deficiency presents a most serious ethical question inasmuch as it reflects the difference in food value of the claimant's product as compared with the product which is generally understood throughout the United States as being tomato sauce.

"It was conceded in argument that the *Baby Brand* article sells for the same price per ounce as the other brands in evidence. Standard brands vary from 8.4% to 13.1% of salt-free tomato solids, whereas *Baby Brand* contains an average of only 6.5%. According to the evidence, tomato sauce must be at least of the minimum consistency of puree, which is not less than 8.37% of salt-free tomato solids. *Baby Brand* therefore lacks 1.87% of containing the minimum percentage of tomato solids required for tomato sauce. This is a deficiency of 22.35%—and we are here referring to the *minimum* solids requirement for tomato sauce. The evidence also shows that *Baby Brand* contains only tomato solids and the water from the natural tomato. Therefore, the housewife in spending one dollar for '*Baby Brand* Tomato Sauce' would get only 77.65 cents' worth of food, as compared with a full dollar's worth when she invests in genuine tomato sauce of the lowest concentration. And in this connection the proof shows that one of the standard brands of tomato sauce contains over twice the percentage of tomato solids as that found in *Baby Brand*.

"It is true that in four states and parts of states, namely, Louisiana, Arkansas, Mississippi, and Western Tennessee, the claimant's product has been accepted by the consuming public as tomato sauce over a long period of time,



but during at least the greater part of that same period standard brands of the spiced product have likewise been so accepted; and, after all, what we are concerned with here is, what do housewives, cooks, restaurateurs, and other buyers throughout the United States, understand tomato sauce to be; not what a part of the consuming public in four states only might consider it to be.

"It has been argued that in view of the heavy sales of the seized product in the four states mentioned, consumers there will not be misled by the brand 'Tomato Sauce', and that the consuming public elsewhere will not be deceived since practically all of claimant's output is sold in these states. The answer to this is that claimant can, if it sees fit, sell its product anywhere in the country, if it is not misbranded, and, moreover, the population of the four states mentioned does not remain static, but is constantly changing, due to the influx of people from other sections of the country.

"Claimant's contention with respect to trade acceptance over a long period of time is weakened somewhat by the fact that up until the time the Administrator fixed the minimum standards for tomato puree and tomato paste, it had sold its product under those names as well as the name of tomato sauce. Conceding such acceptance, however, as stated, we do not feel that consumer acceptance in four states, alone, can establish a criterion for a food product shipped in interstate commerce.

"The seized article is more nearly a tomato juice than any other tomato product that has been discussed in this lawsuit. Dr. Osborne classed it as a beverage. He is an expert on beverages, being in charge of the Beverage Section of the Food Division of the Food and Drug Administration. We examined it and tasted it. It is somewhat heavier than the ordinary tomato juice that we use on our tables. It still may be a beverage, however, it is not a puree due to its low concentration, and it is not a tomato sauce, which, according to the evidence in this case, is a puree with spices added. Not being a tomato sauce, it is misbranded.

"The question of strict or liberal construction of the Act was argued at considerable length by counsel for claimant and for the libelant, and it was contended by the former that since this case involved a libel by the Government to forfeit property of one of its citizens, the proof required must be of a degree higher than a mere preponderance, citing *Van Camp Sea Food Co., Inc. v. United States*, 3 Cir., 82 F. 2d 365. The libelant, on the other hand, contended that the rule of strict construction invoked by the claimant should not be applied, since the Federal Food, Drug, and Cosmetic Act was enacted to protect the public, and should therefore be liberally construed, and cited *United States v. Research Laboratories, Inc.*, 9 Cir., 126 F. 2d 42, to sustain its position. It is not necessary for us to choose between those conflicting theories since in our opinion the Government has established its claim of misbranding by clear and satisfactory evidence. The following language, however, used by the Supreme Court in *United States v. Ninety-Five Barrels of Vinegar*, 265 U. S. 438, 443, appears significant in this connection:

It is not difficult to choose statements, designs and devices which will not deceive. Those which are ambiguous and liable to mislead should be read favorably to the accomplishment of the purpose of the act. The statute applies to food, and the ingredients and substances contained therein. *It was enacted to enable purchasers to buy food for what it really is.* (Citing cases.)

"The seized product should be condemned, but, being a wholesome food, should not be destroyed. The order will be that the cans under seizure be sold by the Marshal after being properly labeled. The sale, however, may be avoided if the claimant will pay the costs of this proceeding and give bond conditioned that the article shall not be sold or disposed of contrary to law, as provided in Section 334 (d) of the Act.

"Findings of fact and conclusions of law made in accordance with this opinion are filed herewith."

On March 13, 1946, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Federal Security Agency.

**9140. Adulteration of tomato sauce. U. S. v. 699 Cases of Pan-American Sauce. Consent decree of condemnation and destruction. (F. D. C. No. 15935. Sample No. 20047-H.)**

**LIBEL FILED:** April 24, 1945, District of Nebraska.

**ALLEGED SHIPMENT:** On or about March 13, 1945, by the Finer Foods Packing Corporation, from Terre Haute, Ind.

**PRODUCT:** 699 cases, each containing 24 14-ounce bottles, of Pan-American Tomato Sauce at Lincoln, Nebr.

**LABEL, IN PART:** "Pan-American Sauce Tomato Pulp, Beets, Celery, Cracker Meal, Sugar, Salt, Vinegar."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed vegetable material.

**DISPOSITION:** July 7, 1945. The Finer Foods Packing Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

### MEAT AND POULTRY\*

**9141. Adulteration of frozen poultry. U. S. v. 47 Barrels and 11 Cases of Frozen Poultry. Default decree of condemnation and destruction. (F. D. C. No. 17045. Sample No. 31466-H.)**

**LIBEL FILED:** August 17, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 11, 1945, by the Baldwin Park Poultry Farms, from Salt Lake City, Utah.

**PRODUCT:** 47 barrels and 11 cases containing about 10,601 pounds of frozen poultry at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of diseased animals.

**DISPOSITION:** September 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9142. Adulteration of frozen turkeys. U. S. v. 40 Boxes of Frozen Turkeys. Product ordered released under bond for segregation and condemnation of unfit portion. (F. D. C. No. 16400. Sample No. 9462-H.)**

**LIBEL FILED:** June 4, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about May 21, 1945, by the Benson Products Co., from Benson, Minn.

**PRODUCT:** 40 boxes containing a total of 3,210 pounds of turkeys at Buffalo, N. Y.

**LABEL, IN PART:** "Pride of Minnesota Hens [or "Turx," or "Mixture"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 11, 1945. The Benson Products Co. having appeared as claimant, judgment was entered ordering the product released under bond, conditioned that the turkeys be eviscerated, under the supervision of the Food and Drug Administration, and the unfit portion condemned. The unfit portion was denatured.

**9143. Adulteration of green turtles. U. S. v. 58 Dead Green Turtles. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15284. Sample No. 6414-H.)**

**LIBEL FILED:** February 15, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 23, 1945, by Merren and Co., from Tampa, Fla.

**PRODUCT:** 58 green turtles at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of an animal which had died otherwise than by slaughter.

**DISPOSITION:** June 4, 1945. Moore and Co., Soups, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion to industrial uses, under the supervision of the Food and Drug Administration.

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\*See also No. 9115.



## NUTS AND NUT PRODUCTS

**9144. Adulteration of Jordan almonds. U. S. v. 254 Boxes and 280 Boxes of Jordan Almonds. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16061, 16144. Sample Nos. 11151-H to 11153-H, incl.)**

**LIBELS FILED:** April 23 and May 14, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about December 1, 1944, and February 7 and 9, 1945, by the F. B. Vandegrift Co., from Philadelphia, Pa.

**PRODUCT:** 254 boxes and 280 boxes at Mansfield and Malden, Mass., respectively, each box containing 28 pounds of Jordan almonds.

**LABEL, IN PART:** "Bevan's Horse Jordan Almonds Product of Spain \* \* \* Horse Brand," or "Selected Jordan Almonds."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of larvae, insect excreta, insect tunneling, and insect-infested, moldy, and decomposed almonds.

**DISPOSITION:** May 9 and 23, 1945. Shaghalian, Inc., Boston, Mass., and Edgar P. Lewis and Sons, Inc., Malden, Mass., claimants for the lots at Mansfield and Malden, respectively, having admitted the allegations of the libels, judgments of condemnation were entered and product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed and the remainder cleaned under the supervision of the Food and Drug Administration.

**9145. Adulteration of shelled almonds. U. S. v. 22 Boxes of Shelled Almonds. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17066. Sample No. 13463-H.)**

**LIBEL FILED:** August 17, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about April 20, 1945, by the Wm. A. Camp Co., Inc., from Philadelphia, Pa.

**PRODUCT:** 22 28-pound boxes of shelled almonds at Toledo, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect-damaged almonds.

**DISPOSITION:** August 21, 1945. A. A. Zink, claimant, having admitted that the product was in the condition described in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law or destroyed under the supervision of the Food and Drug Administration.

**9146. Adulteration of peanut butter. U. S. v. 98 Cases of Peanut Butter. Decree of condemnation and destruction. (F. D. C. No. 15808. Sample No. 11243-H.)**

**LIBEL FILED:** April 11, 1945, District of Maine.

**ALLEGED SHIPMENT:** On or about February 6, 1945, by National Brokerage, from Boston, Mass.

**PRODUCT:** 98 cases, each containing 12 2-pound jars, of peanut butter at Augusta, Maine.

**LABEL, IN PART:** (Jars) "Lynnhaven Brand Peanut Butter \* \* \* Manufactured by Southgate Foods Norfolk, Va."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

**DISPOSITION:** May 14, 1945. Judgment of condemnation was entered and the product was ordered destroyed.

**9147. Adulteration of peanut butter. U. S. v. 34 Cases of Peanut Butter. Default decree of condemnation. Product ordered sold to rendering plants. (F. D. C. No. 15869. Sample No. 24088-H.)**

**LIBEL FILED:** April 5, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about July 17, 1943, by the Sessions Co., Inc., from Enterprise, Ala.

**PRODUCT:** 34 cases, each containing 24 12-ounce jars, of peanut butter at New Orleans, La.

**LABEL, IN PART:** "Goldcraft Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of an article which was unfit for food by reason of its rancidity.

**DISPOSITION:** June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to rendering plants for use in the war effort.

**9148. Adulteration of peanut butter. U. S. v. 19 Cases of Peanut Butter. Default decree of condemnation. Product ordered sold to rendering plants. (F. D. C. No. 15870. Sample No. 24089-H.)**

**LIBEL FILED:** April 5, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about November 6, 1943, by the J. D. Johnston, Jr., Co., from Brundidge, Ala.

**PRODUCT:** 19 cases, each containing 12 24-ounce jars, of peanut butter at New Orleans, La.

**LABEL, IN PART:** "Johnston's Brand Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was in whole or in part unfit for food by reason of its rancidity.

**DISPOSITION:** June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to rendering plants for use in the war effort.

**9149. Adulteration of shelled pecans. U. S. v. 9 Boxes of Shelled Pecans. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as animal feed. (F. D. C. No. 15854. Sample No. 23914-H.)**

**LIBEL FILED:** March 31, 1945, Middle District of Georgia.

**ALLEGED SHIPMENT:** The product had been shipped originally by the Bateman Pecan Co., from Macon, Ga., to the Saxons Candy Kitchen, Wellington, Ala., but had been returned by the latter firm.

**PRODUCT:** 9 60-pound boxes of shelled pecans at Macon, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food since it had a strong odor and taste suggestive of iodoform, rendering it unpalatable and repulsive.

**DISPOSITION:** June 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as animal feed.

**9150. Adulteration of shelled pecans. U. S. v. 16 Boxes of Shelled Pecans. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 14940. Sample No. 78972-F.)**

**LIBEL FILED:** January 9, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about December 1, 1944, by the Memphis Pecan and Walnut Co., from Memphis, Tenn.

**PRODUCT:** 16 60-pound boxes of shelled pecans at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was in whole or in part unfit for food by reason of the presence of black-spotted pecan kernels.

**DISPOSITION:** June 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On September 7, 1945, this order was amended to permit delivery of the product to a public institution, for use as stock feed.

**9151. Adulteration of pistachio nuts. U. S. v. 4 Cans of Nuts. Default decree of condemnation and destruction. (F. D. C. No. 8192. Sample No. 2715-F.)**

**LIBEL FILED:** August 21, 1942, Northern District of Oklahoma.

**ALLEGED SHIPMENT:** On or about July 2, 1942, by the American Pistachio Corporation, from New York, N. Y.

**PRODUCT:** 4 cans, each containing 25 pounds, of pistachio nuts at Tulsa, Okla. Examination showed that the product was insect-infested, and that rancid and decomposed nuts were present.

**LABEL, IN PART:** "Sun Brand \* \* \* Extra Quality Pistachio Nuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance.



**DISPOSITION:** September 16, 1942. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9152. Adulteration of shelled walnuts. U. S. v. 400 Cartons of Shelled Walnuts (and 6 other seizure actions against shelled walnuts). Decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 15858, 15859, 15913, 15914, 15996, 16012, 16108, 16109, 16110. Sample Nos. 4520-H, 10464-H, 18001-H, 18002-H, 18629-H, 18632-H to 18636-H, incl., 18639-H, 18729-H.)

**LIBEL FILED:** Between the approximate dates of April 12 and May 12, 1945, Northern District of Illinois, District of Minnesota, Western and Eastern Districts of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of November 30, 1944, and March 23, 1945, by the Davis Nut Shelling Co., from Los Angeles, Calif.

**PRODUCT:** Shelled walnuts. 610 25-pound cartons at Chicago, Ill.; 168 25-pound cartons and 3 cartons containing, respectively, 6 pounds, 12½ pounds, and 16½ pounds at Duluth, Minn.; 200 25-pound cartons at Philadelphia, Pa., and 40 25-pound cartons at Pittsburgh, Pa.

**LABEL, IN PART:** "Davis Pakt Shelled Walnuts Standard Amber Halves & Pieces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect-infested, worm-damaged, and moldy walnuts.

**DISPOSITION:** Between April 30 and June 28, 1945, E. J. Brach & Sons, claimant for a portion of the Chicago lot, Bunte Brothers, claimant for the remainder of the Chicago lot, and the Davis Nut Shelling Co., claimant for the Duluth, Pittsburgh, and Philadelphia lots, having admitted the material allegations of the respective libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

## OILS AND FATS

**9153. Adulteration and misbranding of french dressing. U. S. v. 858 Bottles and 69 Cases of French Dressing. Consent decree of condemnation and destruction.** (F. D. C. No. 13886. Sample Nos. 73481-F, 73486-F.)

**LIBEL FILED:** October 4, 1944, Northern District of California.

**ALLEGED SHIPMENT:** On or about March 1 and June 19, 1944, by the Helen Harrison Co., from Bloomington, Ill.

**PRODUCT:** French dressing. 229 8-ounce bottles, 580 16-ounce bottles, 49 27½-ounce bottles; and 15 cases, each containing 24 8-ounce bottles, 19 cases, each containing 24 16-ounce bottles, and 35 cases, each containing 12 27½-ounce bottles at Oakland, Calif. Examination showed that a number of the bottles were undergoing fermentation and that the remainder were short of the declared contents.

**LABEL, IN PART:** "Helen Harrison's French Dressing With Chutney 8 [or "16," or "27½"] Fluid Ounces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (portion) the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e) (2), (remainder) the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** January 14, 1946. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9154. Adulteration and misbranding of Salad-Aise. U. S. v. 159 Jars of Salad-Aise. Default decree of condemnation and destruction.** (F. D. C. Nos. 16305, 16306. Sample Nos. 4728-H, 4729-H.)

**LIBEL FILED:** May 29, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 3 and 9, 1945, by T. M. Finch and Co., from Rochester, N. Y.

**PRODUCT:** 159 1-gallon jars of Salad-Aise at Philadelphia, Pa.

**LABEL, IN PART:** "Finch's Salad-Aise A Delicious Blend of Pure Mayonnaise and Salad Dressing."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (4), mineral oil, a nonnutritive substance, had been added to the article and mixed and packed with it so as to increase its bulk and make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the labeling was misleading in that the statement, "Salad-Aise A Delicious Blend of Pure Mayonnaise and Salad Dressing," created the impression and implied that the added oil ingredient of the article was edible vegetable oil, and such impression and implication was not corrected by the latter statement on the label that the article contained mineral oil; since such statements are contradictory.

**DISPOSITION:** October 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9155. Adulteration and misbranding of edible oils. U. S. v. New Jersey Importing Co. and Louis Tomaiuoli and Frank Tomaiuoli. Pleas of guilty. New Jersey Importing Co. fined \$500; both individual defendants given \$250 suspended sentence and probation for 1 year. (F. D. C. No. 15588. Sample Nos. 82289-F, 82291-F to 82293-F, incl., 82295-F, 82296-F, 82298-F, 82299-F, 82770-F, 82771-F, 82777-F.)**

**INFORMATION FILED:** October 1, 1945, District of New Jersey, against the New Jersey Importing Co., a partnership, West New York, N. J. and Louis Tomaiuoli and Frank Tomaiuoli, trading as copartners under the names of the New Jersey Importing Co. and the Lucatelli Packing Co.

**ALLEGED SHIPMENT:** Between the approximate dates of June 7 and September 6, 1944, from the State of New Jersey into the State of New York.

**LABEL, IN PART:** (Cimarosa Brand) "100% Pure Fine cottonseed, peanut, corn And Extra Virgin Olive Oil"; (Lucatelli Brand Choice Peanut Oil) "Choice Peanut Oil Blended With Olive Oil \* \* \* However, in order to further improve our product, we have added a generous portion of one hundred per cent pure virgin Olive Oil, the result being a superior blended oil of extra fine quality and delicate flavor, guaranteed to satisfy the taste of the most discriminating consumers [and similar statements in Italian]"; (Lucatelli Superfine Olive Oil) "Imported Produce \* \* \* Superfine Olive Oil Guaranteed 100% Pure \* \* \* Extra Sublime This Can Contains The Cream Of Imported Virgin Olive Oil Guaranteed To Be Chemically Pure—It Excels For Table Cooking and Medicinal Use [and similar statements in Italian, together with designs of gold medals and olive branches]."

**NATURE OF CHARGE:** *Cimarosa Brand.* Adulteration, Section 402 (b) (4), artificial color had been added to the product and mixed and packed with it so as to make it appear better or of greater value than it was; and Section 402 (c), a portion of the product contained a coal-tar color that had not been listed as harmless and suitable for use in foods in accordance with the regulations and was other than one from a batch that had been certified. Misbranding, Section 403 (a), the statements in the labeling quoted above were false and misleading since they represented and suggested that the article consisted of a mixture of 100 percent pure fine cottonseed, peanut, corn, and extra virgin olive oils. It consisted of an artificially colored mixture of cottonseed oil and an oil similar to soybean oil, and it contained little or no peanut, corn, or olive oil. Further misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the cans contained less than the declared weight of 1 gallon.

*Lucatelli Brand Peanut Oil.* Misbranding, Section 403 (a), the statements quoted above were false and misleading since they represented and suggested that the article consisted of choice peanut oil and a substantial amount of olive oil. It consisted essentially of peanut oil and cottonseed oil, containing little or no olive oil. Further misbranding, Section 403 (e) (2) the label of the product failed to bear an accurate statement of the quantity of the contents, since the cans contained less than the declared volume of 1 gallon.

*Lucatelli Superfine Brand Olive Oil.* Misbranding, Section 403 (a), the statements and designs on the label quoted above were false and misleading since they represented that the article consisted of pure olive oil. It consisted of a mixture of olive oil and about 30 percent of peanut oil.

**DISPOSITION:** November 30, 1945. Pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$500 on the partnership. Each of the individual defendants were sentenced to pay fines of \$250, but these



individual sentences were suspended and the defendants were placed on probation for a period of 1 year.

**9156. Adulteration and misbranding of edible oil. U. S. v. Western Food Corporation. Plea of guilty. Fine, \$300 and costs. (F. D. C. No. 14264. Sample Nos. 66572-F, 67469-F.)**

**INFORMATION FILED:** June 13, 1945, Northern District of Illinois, against the Western Food Corporation, Chicago, Ill.

**ALLEGED SHIPMENT:** On or about March 9 and 24, 1944, from the State of Illinois into the States of Missouri and Ohio.

**LABEL, IN PART:** "W. F. C. Liguria Superfine Brand An Excellent Composition of 80% Vegetable Oil and 20% Pure Virgin Olive Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent of the article, olive oil, had been in part omitted from it; and Section 402 (b) (2), a substance consisting essentially of corn oil and containing materially less than 20 percent of olive oil had been substituted for 80 percent of vegetable oil and 20 percent of pure virgin oil, which the article was represented to be.

Misbranding Section 403 (a), the label statement, "An Excellent Composition of 80% Vegetable Oil and 20% Pure Virgin Olive Oil," was false and misleading since the article contained materially less than 20 percent of olive oil; and the word "Liguria," which is the name of an Italian province, and the design of medals, together with the prominent statement "Pure Virgin Olive Oil," borne on the cans containing the article, were misleading since they created the impression that the article was a foreign product, whereas it was essentially a domestic product consisting, in most part, of corn oil produced in the United States.

**DISPOSITION:** September 27, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$300 and costs.

**9157. Adulteration and misbranding of edible oils. U. S. v. 15 Cans of Edible Oils (and 4 other seizure actions against edible oils). Default decrees of condemnation. Products ordered delivered to charitable institutions. (F. D. C. Nos. 16117, 16277, 16278, 16332, 16335. Sample Nos. 4063-H, 6974-H, 6990-H, 6997-H, 6998-H.)**

**LIBELS FILED:** Between May 7 and June 4, 1945, District of New Jersey and Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of March 8 and May 10, 1945, from Brooklyn, N. Y., by the Mamma Mia Importing Co., Inc.

**PRODUCT:** Edible oils. 15 1-gallon cans at Clifton, N. J., 88 1-gallon cans and 10 cases at Newark, N. J., and 5 cases at Philadelphia, Pa. Each case contained 6 1-gallon cans of edible oils.

Analyses disclosed that the Clifton lot consisted essentially of cottonseed oil, containing little or no olive oil or peanut oil; that one of the Newark lots consisted essentially of peanut oil and some cottonseed oil, with little or no olive oil; that the other two Newark lots consisted essentially of corn oil or corn oil and a vegetable oil such as soya or sunflower seed oil, containing little or no peanut or olive oil; and that the Philadelphia lot consisted essentially of a vegetable oil such as sunflower seed oil with some cottonseed, peanut, and corn oils, but little, if any, olive oil.

**LABEL, IN PART:** (Can) "America's Finest Brand \* \* \* Peanut and Imported Olive Oil [or "Peanut and Pure Olive Oil"] Packed by \* \* \* Sunshine Edible Oil Co. Inc, Brooklyn, N. Y.," or "Santuzza Brand 80% Cotton Seed & Peanut Oil 20% Imported Olive Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), mixtures of oils as disclosed by the analyses had been substituted in whole or in part for "Peanut and Imported Olive Oil," "Peanut and Pure Olive Oil," and "80% Cotton Seed & Peanut Oil 20% Imported Olive Oil."

Misbranding, Section 403 (a), the statements, "Peanut and Pure Olive Oil," "Peanut and Imported Olive Oil," and "80% Cotton Seed & Peanut Oil 20% Imported Olive Oil," borne on the labels of the respective lots, were false and misleading.

**DISPOSITION:** Between October 25 and December 8, 1945, no claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to charitable institutions.



**9158. Misbranding of edible oils. U. S. v. 54 Cans of Corn Oil and Olive Oil and 29 Cans of Sunflower, Peanut, Corn, and Olive Oils. Default decree of condemnation. Products ordered delivered to a charitable institution. (F. D. C. No. 16292. Sample Nos. 6987-H, 6988-H.)**

**LIBEL FILED:** May 23, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 23, 1945, by the Venice Importing Co., from Brooklyn, N. Y.

**PRODUCT:** 83 1-gallon cans of edible oils at Newark, N. J.

**LABEL, IN PART:** "Astro d' Oro Brand Corn Oil and Olive Oil," or "Romanelle Brand A Choice Blend of Sunflower, Peanut, Corn and Pure Olive Oils."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Corn Oil and Olive Oil," was misleading since it failed to reveal the material fact that the article contained but a minute quantity, if any, of olive oil; and, Section 403 (f), the label contained representations in a foreign language (Italian) and the common or usual name of each ingredient, required by Section 403 (i) to appear on the label, did not appear thereon in the foreign language.

Further misbranding, Section 403 (a), (Romanelle Brand) the label statements, "A Choice Blend of Sunflower, Peanut, Corn and Pure Olive Oils" and "Scelta Miscela d'olii di girasole arachide, gran turco ed olio d'oliva puro," were misleading since they failed to reveal the material fact that the article contained only minute quantities of peanut and olive oils, if any.

**DISPOSITION:** November 19, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a charitable institution after destruction of the labels.

**9159. Adulteration and misbranding of olive oil. U. S. v. 68 Cans of Olive Oil. Default decree of condemnation. Product ordered delivered to a soap factory. (F. D. C. No. 7531. Sample Nos. 84385-E to 84389-E, incl.)**

**LIBEL FILED:** May 20, 1942, District of New Jersey.

**ALLEGED SHIPMENT:** On or about September or October 1941, by the Naples Oil Co., from Brooklyn, N. Y.

**PRODUCT:** 68 cans of olive oil at Hillside, N. J.

**LABEL, IN PART:** "Superfine Olive Oil A. Sasso Brand," "Cirillo Brand Pure Italian Olive Oil," "Lucca Brand Olio di Oliva-Vergine," "Puglia Brand \* \* \* Olive Oil," or "Torino Brand 100% Pure Olive Oil \* \* \* Packed by J. Ossola Co. New York-Pittsburgh."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially flavored and artificially colored mixture of cottonseed oil and peanut oil, containing little or no olive oil, had been substituted in whole or in part for olive oil, which the product purported to be; Section 402 (b) (3), inferiority had been concealed by the addition of artificial flavoring and artificial coloring; Section 402 (b) (4), artificial flavoring and artificial coloring had been added to the article or packed with it so as to make it appear to be better or of greater value than it was; and (Cirillo, Lucca, and Puglia brands), Section 402 (c), it contained a coal-tar color other than one from a batch that had been certified in accordance with the regulations.

Misbranding, Section 403 (a), the following statements and similar statements in Italian, together with various designs of olive branches, an olive tree, and a woman gathering olives, were false and misleading: (A. Sasso brand) "Superfine Olive Oil \* \* \* Imported Product," and "Pure Olive Oil Imported"; (Cirillo brand) "Pure Italian Olive Oil Imported \* \* \* The oil contained in this tin is guaranteed of pure olive under any chemical analysis. Recommended for medicinal and table use," and "Pure Imported Olive Oil"; (Lucca brand) "Olio di Oliva-Vergine," "This Olive Oil is guaranteed pure" and "Imported Product"; (Puglia brand) "Finest Quality Olive Oil Imported From Lucca-Italy," "Contents guaranteed strictly pure olive oil excellent for table and medicinal use," and "Imported Product"; (Torino brand) "Finest Sublime \* \* \* 100% Pure Olive Oil Imported Product," and "Guaranteed to be absolutely pure olive oil unexcelled and recommended for medicinal and table use." Further misbranding, Section 403 (b), the product was offered for sale under the name of another food; Section 403 (c), it was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately there-



after, the name of the food imitated; Section 403 (k), it contained artificial flavoring and artificial coloring and it failed to bear labeling stating that fact; and (A. Sasso, Cirillo, Lucca and Puglia brands), Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

**DISPOSITION:** January 28, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a soap factory, to be mixed with other fats intended for industrial purposes.

**9160. Misbranding of olive oil. U. S. v. 15 Cans of Olive Oil. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15795. Sample No. 5960-H.)**

**LIBEL FILED:** April 5, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 19, 1945, by the Scarlata Olive Oil Co., from Manteca, Calif.

**PRODUCT:** 15 1-gallon cans of olive oil at Clifton, N. J. Examination showed that the product was short of the declared volume.

**LABEL, IN PART:** "Scarlata Brand Pure California Olive Oil Net Contents One Gallon."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** July 9, 1945. A. Farrinella and Co., Clifton, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that each can be refilled to contain a full gallon; under the supervision of the Food and Drug Administration.

### SPICES, FLAVORS, AND SEASONING MATERIALS

**9161. Adulteration and misbranding of cinnamon, white pepper, paprika, and nutmeg. U. S. v. William G. Dean, alias John C. Rivers, (Sure-Rise Baking Powder Co.). Plea of guilty. Sentence, 30 days in jail. (F. D. C. No. 9671. Sample Nos. 17789-F, 17790-F, 19192-F, 44802-F to 44807-F, incl., 44812-F.)**

**INFORMATION FILED:** May 3, 1945, Southern District of New York, against William G. Dean, alias John C. Rivers, trading as the Sure-Rise Baking Powder Co., New York, N. Y.

**ALLEGED SHIPMENT:** Between the approximate dates of April 28, 1942, and February 2, 1943, from the State of New York into the State of New Jersey.

**PRODUCT:** Examination disclosed that each of the products consisted in part of a foreign starch; that the paprika also contained artificial color; and that the cinnamon, nutmeg, and one of the five shipments of pepper were short-weight.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), mixtures containing foreign starch had been substituted in whole or in part for cinnamon, white pepper, paprika, and nutmeg; and, Section 402 (b) (4), a foreign starch had been added to the products or mixed or packed with them so as to reduce their quality and strength. Further adulteration, Section 402 (b) (3), the article labeled "Paprika" was inferior to paprika and had been artificially colored in a manner whereby such inferiority was concealed.

Misbranding, Section 403 (a), the label statements, "Cinnamon," "White Pepper," "Pure White Pepper," "Pure Ground White Pepper," "Fancy Paprika," and "Nutmeg," were false and misleading; and the statement "1 Lb. Net," appearing on the can labels of the cinnamon, nutmeg, and one of the shipments of white pepper, was false and misleading since the cans contained less than 1 pound. Further misbranding. Section 403 (b), the articles were offered for sale under the names of other foods; Section 403 (c), the article labeled "Paprika" was an imitation, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403 (e) (1), the cinnamon, paprika, nutmeg, and two of the shipments of the white pepper failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), the cinnamon, nutmeg, and one of the shipments of white pepper failed to bear labels containing an accurate statement of the quantity of the contents; Section 403 (i) (2), the labels of the articles failed to bear the common



or usual name of each ingredient; and, Section 403 (k), the paprika contained artificial coloring and failed to bear labeling stating that fact.

**DISPOSITION:** June 26, 1945. A plea of guilty having been entered, the court sentenced the defendant to serve 30 days in jail.

**9162. Adulteration of black pepper and imitation lemon flavor, and adulteration and misbranding of ground cinnamon. U. S. v. Lewis I. Temkin (La Salle Mfg. Co.). Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 15503. Sample Nos. 40360-F, 59722-F, 66610-F, 68018-F, 80035-F, 80642-F.)**

**INFORMATION FILED:** May 23, 1945, Northern District of Illinois, against Lewis I. Temkin, trading as the La Salle Mfg. Co., Chicago, Ill.

**ALLEGED SHIPMENT:** Between the approximate dates of November 29, 1943, and April 12, 1944, from the State of Illinois into the States of Ohio, Wisconsin, Michigan, and Missouri.

**LABEL, IN PART:** "Florence Nightingale \* \* \* Pure Ground Black Pepper [or "Pure Ground Cinnamon"]," and "Cook's Pride Imitation Lemon Flavor."

**NATURE OF CHARGE:** *Pepper.* Adulteration, Section 402 (b) (2), substances, one of which consisted of ground, delinted cottonseed hulls, soybean meal, and ground black pepper, and the other of which consisted of ground buckwheat, buckwheat hulls, and ground black pepper, had been substituted in whole or in part for pure ground black pepper, which the article was represented to be; and, Section 402 (b) (4), ground, delinted cottonseed hulls and soybean meal, or ground buckwheat and buckwheat hulls, had been added to or mixed or packed with pure ground black pepper so as to reduce its strength and quality.

*Cinnamon.* Adulteration, Section 402 (b) (2), substances, one consisting of seed meal and ground cinnamon, and the other consisting of seed meal, wheat starch, and ground cinnamon, had been substituted in whole or in part for pure ground cinnamon, which the article was represented to be; and, Section 402 (b) (4), seed meal alone, or seed meal and wheat starch, had been added to or mixed or packed with pure ground cinnamon so as to reduce its quality or strength. Misbranding, Section 403 (e) (2), the label on a portion of the article failed to bear an accurate statement of the quantity of the contents because the packages of that portion contained less than "1 Oz. Avd.," as was declared on the label; and, Section 403 (d), the containers of the article were so made, formed, and filled as to be misleading in that each container was filled to but 47 percent or 50 percent of capacity.

*Lemon flavor.* Adulteration, Section 402 (b) (2), a substance with a faint odor of lemon and having little or no value as a flavoring had been substituted for imitation lemon flavor, which the article was represented to be; and, Section 402 (b) (4), water had been added to the article or mixed or packed with it so as to reduce its quality and strength.

**DISPOSITION:** September 26, 1945. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$125 on each count, a total fine of \$1,000.

**9163. Adulteration and misbranding of black pepper. U. S. v. 326 Packages of Black Pepper. Consent decree of condemnation and destruction. (F. D. C. No. 15809. Sample No. 217-H.)**

**LIBEL FILED:** April 10, 1945, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about March 1, 1945, by the General Products Co., from Albany, Ga.

**PRODUCT:** 326 packages, each containing 2 ounces, of black pepper.

**LABEL, IN PART:** (In large, bold type) "Black Pepper"; (in smaller type) "Decortication"; (in still smaller type) "with buckwheat middlings added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, pepper, had been in whole or in part omitted from the product; and, Section 402 (b) (2), a mixture of buckwheat hulls, bran, and flour with pepper shells had been substituted in whole or in part for black pepper.

Misbranding, Section 403 (a), the prominent label statement, "Black Pepper," was false and misleading as applied to a product consisting of a mixture of buckwheat hulls, bran, and flour with pepper shells, despite the inconspicuous statement, "Decortication with buckwheat middlings added."

**DISPOSITION:** May 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9164. Adulteration of capsicum. U. S. v. 20 Bags of Capsicum. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15834. Sample No. 22644-H.)**

**LIBEL FILED:** March 29, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about December 9, 1944, by the P. H. Petry Co., from New York, N. Y.

**PRODUCT:** 20 53-pound bags of capsicum at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect excreta and moldy pods.

**DISPOSITION:** April 19, 1945. The David G. Evans Coffee Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law or destroyed under the supervision of the Food and Drug Administration.

**9165. Adulteration of mustard seed. U. S. v. 100 Bags of Mustard Seed. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15842. Sample No. 22031-H.)**

**LIBEL FILED:** March 30, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 12, 1943, from Great Falls, Mont.

**PRODUCT:** 100 100-pound bags of mustard seed at St. Louis, Mo., in the possession of the Grocers Warehouse. The product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** On April 20, 1945, the Leston Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of the Food and Drug Administration. On April 26, 1945, an order was entered providing for the destruction of the portion of the product found to be unfit after segregation.

**9166. Adulteration of chili powder and pickling spices. U. S. v. 194 Cards of Chili Powder and 29 Cards of Pickling Spices. Default decree of condemnation and destruction. (F. D. C. No. 15923. Sample Nos. 28073-H, 28074-H.)**

**LIBEL FILED:** May 5, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about March 23, 1943, from Los Angeles, Calif.

**PRODUCT:** 194 cards, each holding 12 1½-ounce envelopes, of chili powder, and 29 cards, each holding 12 1-ounce envelopes, of pickling spices at Bellingham, Wash.

**LABEL, IN PART:** "RW Chili Powder," and "RW Mixed Pickling Spices."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of larvae, insect excreta, and webbing.

**DISPOSITION:** October 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9167. Misbranding of celery seed. U. S. v. 59 Dozen Packages of Celery Seed. Default decree of condemnation and destruction. (F. D. C. No. 16104. Sample No. 4455-H.)**

**LIBEL FILED:** May 7, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 17, 1945, by the Quaker City Coffee Mills, from Philadelphia, Pa.

**PRODUCT:** 59 dozen 1-ounce packages of celery seed at Camden, N. J.

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the product was so filled as to be misleading since the celery seed occupied, on an average, only 45 percent of the volume of the package.

**DISPOSITION:** November 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9168. Misbranding of vanilla extract and lemon extract. U. S. v. 128 Cases of Vanilla Extract and 29 Cases of Lemon Extract.** (F. D. C. No. 17074. Sample Nos. 4478-H, 4479-H.)

**LIBEL FILED:** July 28, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of April 20 and July 6, 1945, by John Lecroy and Son, from Camden, N. J.

**PRODUCT:** 128 cases, each containing 12 ½-ounce bottles, of vanilla extract, and 29 cases, each containing 12 ½-ounce bottles, of lemon extract at Philadelphia, Pa. Each of the bottles was contained in a carton.

**LABEL, IN PART:** "Lecroy's Pure Vanilla [or "Lemon"] Extract."

**NATURE OF CHARGE:** Misbranding, Section 403(d), the containers were so made, formed, and filled as to be misleading since the individual carton was excessively large for the size of the bottle.

**DISPOSITION:** October 9, 1945. John Lecroy and Son, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for repackaging and relabeling under the supervision of the Food and Drug Administration.

### MISCELLANEOUS FOODS

**9169. Adulteration of saccharic acid. U. S. v. 18 Barrels and 1 Keg of Saccharic Acid. Default decree of condemnation and destruction.** (F. D. C. No. 15636. Sample No. 55695-F.)

**LIBEL FILED:** April 17, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about April 16, 1943, by the Bocker Chemical Co., from Morganville, N. J.

**PRODUCT:** 18 500-pound barrels and 1 100-pound keg of saccharic acid at Seattle, Wash. The product was to be used as a component of foods.

**NATURE OF CHARGE:** Adulteration, Section 402 (a)(1), the article contained added poisonous or deleterious substances, hydrocyanic and oxalic acids, which may have rendered it injurious to health.

**DISPOSITION:** September 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9170. Adulteration of rennet extract. U. S. v. 1 Keg of Rennet Extract. Default decree of condemnation and destruction.** (F. D. C. No. 16220. Sample No. 14882-H.)

**LIBEL FILED:** June 4, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 6, 1945, by the Dairyland Rennet Co., from Green Bay, Wis.

**PRODUCT:** 1 10-gallon keg of rennet extract. Inspection revealed that the factory of the Dairyland Rennet Co. was heavily infested with rodents and flies, and that the rennet extract being manufactured contained borax.

**LABEL, IN PART:** "Red Seal Dairyland Rennet Extract."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, borax, which is unsafe within the meaning of the law since it is not required in the production of the article and its use can be avoided by good manufacturing practice; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9171. Adulteration of rennet. U. S. v. 2 Boxes of Italian Rennet. Default decree of condemnation and destruction.** (F. D. C. No. 15871. Sample No. 17426-H.)

**LIBEL FILED:** April 12, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about February 14, 1945, by John B. Torresin, from Fond du Lac, Wis.

**PRODUCT:** 1 82-pound box and 1 70-pound box of Italian rennet at Freeport, Ill.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, hairs resembling rodent, cow, or goat hairs, and wood and plant fibers.

**DISPOSITION:** October 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9172. Adulteration of rennet. U. S. v. 4 Barrels of Italian Style Rennet. Consent decree of condemnation and destruction.** (F. D. C. No. 16786. Sample No. 23314-H.)

**LIBEL FILED:** July 5, 1945, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about March 8, 1945, by J. Marchioretto and Co., from Kenosha, Wis.

**PRODUCT:** 4 barrels containing about 950 pounds of Italian style rennet at Harrison, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of cow hairs, plant fibers, and insect fragments.

**DISPOSITION:** September 11, 1945. The consignee having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9173. Adulteration of cocoa butter. U. S. v. 444 Cases and 390 Cases of Cocoa Butter. Decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 14523, 14547. Sample Nos. 68447-F, 68448-F.)

**LIBELS FILED:** November 25 and 28, 1944, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 23 and 25, 1944, by the Toledo Candy Co., Bloomington, Ill.

**PRODUCT:** 444 cases and 390 cases, each containing approximately 130 pounds, of cocoa butter at Toledo, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, insect fragments, dirt, and mold.

**DISPOSITION:** December 13, 1944. The Paul F. Beich Co., a corporation, Bloomington, Ill., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into conformity with the law, under the supervision of the Food and Drug Administration.

**9174. Adulteration of cocoa butter. U. S. v. 56 Bags of Cocoa Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15442. Sample No. 17413-H.)

**LIBEL FILED:** On or about March 8, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 14, 1944, from Brooklyn, N. Y.

**PRODUCT:** 56 bags, each containing approximately 200 pounds, of cocoa butter at Chicago, Ill., in the possession of the Lion Speciality Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 8, 1945. The Lion Speciality Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned, under the supervision of the Food and Drug Administration, by removing all contaminated bags and wrappers, cutting away all rodent-gnawed portions, and re-packing the product in clean containers.

**9175. Adulteration of yeast. U. S. v. Henry A. Kohman (H. A. Kohman). Plea of guilty. Fine, \$150 and costs.** (F. D. C. No. 15536. Sample Nos. 63349-F, 63907-F, 89835-F.)

**INFORMATION FILED:** June 15, 1945, Western District of Pennsylvania, against Henry A. Kohman, trading as H. A. Kohman, Pittsburgh, Pa.

**ALLEGED SHIPMENT:** Between the approximate dates of July 3 and August 21, 1944, from the State of Pennsylvania into the States of Georgia and Florida.

**LABEL, IN PART:** (Portion) "Kohman's Salt Rising Yeast."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, whole insects, larvae, and a rodent hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 17, 1945. A plea of guilty having been entered, the defendant was fined \$150 and costs.

**9176. Adulteration of ice cream mix. U. S. v. Billings Dairy, Inc. Plea of guilty. Fine, \$200.** (F. D. C. No. 15537. Sample Nos. 69320-F, 85813-F, 85815-F.)

**INFORMATION FILED:** June 12, 1945, District of Montana, against the Billings Dairy, Inc., Billings, Mont.

**ALLEGED SHIPMENT:** June 17 and August 20 and 21, 1944, from the State of Montana into the State of Wyoming.

**LABEL, IN PART:** "Billings Dairy Inc. Ice Cream."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of nondescript dirt, threads, vegetable fiber, feather barbules, and metal particles; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 22, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$200.

**9177. Misbranding of ice cream mix. U. S. v. 20 Cartons of Londonderry Ice Cream Mix. Default decree ordering that the product be distributed to charitable institutions.** (F. D. C. No. 15606. Sample No. 29223-H.)

**LIBEL FILED:** March 10, 1945, District of Utah.

**ALLEGED SHIPMENT:** On or about February 10, 1945, by Londonderry, from San Francisco, Calif.

**PRODUCT:** 20 cartons, each containing 48 packages, of Londonderry ice cream mix.

**LABEL, IN PART:** "Londonderry for making Ice Cream at Home."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, " 'Make it in 2 Minutes' Then Freeze—That's All Enough for 4 Pts \* \* \* for making Ice Cream at Home \* \* \* Makes all flavors Ice Cream as low as 11 cents a pint \* \* \* In Two Minutes," were false and misleading as applied to the article, which was conspicuously represented as having components of ice cream, but which failed to reveal with equal conspicuousness the fact that it was only a stabilizer and that the expensive ingredients must be furnished by the purchaser; and, Section 403 (k), the article contained artificial flavoring and it failed to bear labeling stating that fact.

**DISPOSITION:** May 12, 1945. No claimant having appeared, judgment was entered and the product was ordered distributed to charitable institutions.

#### VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES

**9178. Misbranding of Diet Supplements No. 4B and No. 10. U. S. v. Dr. Pierre A. Bonquet (Dr. P. A. Bonquet Products). Plea of not guilty. Verdict of guilty. Fine, \$300. Sentence of 1 year in jail suspended and defendant placed on probation for 3 years.** (F. D. C. No. 14277. Sample Nos. 62752-F, 81335-F.)

**INFORMATION FILED:** March 10, 1945, Southern District of California, against Dr. Pierre A. Bonquet, doing business as Dr. P. A. Bonquet Products, Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about March 25 and April 6, 1944, from the State of California into the States of Missouri and Kansas.

**PRODUCT:** Examination indicated that the products were aqueous, sirupy suspensions containing large amounts of reducing sugars and smaller amounts of dissolved and undissolved proteinaceous matter, lactic acid, calcium, iron, chloride, phosphate, and a trace of manganese.



**NATURE OF CHARGE:** *Diet Supplement No. 4B.* Misbranding, Section 403 (a), certain statements on the label and in an accompanying circular entitled "A Reconstruction Diet With Vital Raw Organs From Healthy Animals" were false and misleading since they represented and suggested that the article contained a nutritionally significant amount of protein; that it would be of especial value as a supplement for a diet in pernicious and nutritional anemia; that it was a concentrate of proteins; that it was a concentrated food; that it would produce new activity and strengthen every organ of the body; that it would cause normal functioning of the organs of the body; that it would build practically every organ of the body and restore vigorous health and youthful strength; that it would rebuild the blood-forming organs and reinvigorate the blood; that it would rebuild the heart muscle, the stomach muscle, the intestines, the kidneys, the glandular tissue, the brain tissue, and the defensive tissue, so that the sick organs of the body would be immediately fed by the "building stones" that had been lacking in the diet; that it would provide special nutrition for the body; that it was very high in natural vitamins; and that it contained substantial amounts of the vitamins found in meat. The article did not contain the amounts of protein and vitamins represented; it was not a concentrate of proteins; it was not a concentrated food; and it would not accomplish the results claimed.

*Diet Supplement No. 10.* Misbranding, Section 403 (a), certain statements on the label and in an accompanying leaflet entitled "Hydro-Thropic Calcium Ionizable No. 10" were false and misleading since they represented and suggested that the article contained a nutritionally significant amount of protein; that it would increase the ionizable calcium in the blood stream, relieve the hyperfunction of the cortex of the adrenal gland, and regulate the sodium chloride retention of the body liquids; that it would increase the rate of cell renovation and cell growth and reconstruction; that it would favor the beneficial bacterial flora in the intestinal tract and eliminate a putrefying bacterial flora; that it would increase the tone and favor the reconstruction of the muscles of the intestinal wall and prevent stasis, atonia, and inflammation of the intestines; that it would prevent hyperplasia of the parathyroid glands; that it would prevent hyperirritability of the whole nervous system; that it would prevent inflammation of the trophic nerves and nerve ganglia; that it would prevent the "status allergicus" and all its consequences; that it would prevent rarefaction and reabsorption of the bone tissue, inactivation of vitamins A and D, and all kinds of muscular tetany, especially during lactation; that it would increase and normalize the force and power of the heart beat by increasing the tone of the heart muscle; that it would prevent premature aging, atonia of the vagus, and sympathetic hyperfunction; that it would increase the output of the glands of digestion and give strength and tone to the voluntary muscles and nervous system; and that it was an exceptionally valuable source of assimilable calcium, and therefore would be of especial value in preventing a sequence of malfunctions that finally would bring about irreparable bone and organ deterioration and, finally, bacterial invasion in the necrosed tissues. The article did not contain a nutritionally significant amount of protein; it was not an exceptionally valuable source of assimilable calcium; and it would not be efficacious for the purposes represented. Further misbranding, Section 403 (j), it purported to be and was represented for special dietary uses by reason of its mineral properties in respect of calcium, phosphorus, and iron, and its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for calcium, phosphorus, and iron which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

The *Diet Supplement No. 4B* was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1723.

**DISPOSITION:** On May 22, 1945, the defendant having entered a plea of not guilty, the case came on for trial before a jury. This trial resulted in a jury disagreement. Thereafter, the case was retried before another jury, resulting in a verdict of guilty. On October 16, 1945, the court imposed a fine of \$150 on each of counts 1 and 2, relating to the Diet Supplement No. 4B, and a sentence of 1 year in jail with respect to count 3, relating to the Diet Supplement No. 10. The jail sentence was suspended and the defendant was placed on probation for 3 years.



**9179. Misbranding of Paracelsus. U. S. v. American Biochemical Corporation. Plea of guilty. Fine, \$600. (F. D. C. No. 14281. Sample Nos. 3786-F, 3787-F, 59316-F.)**

**INFORMATION FILED:** May 16, 1945, Northern District of Ohio, against the American Biochemical Corporation, Cleveland, Ohio.

**ALLEGED SHIPMENT:** From the State of Ohio into the States of Missouri and Illinois. The product was shipped on or about November 26 and 29 and December 16, 1943, and was accompanied by a number of circulars which were shipped between October 30, 1943, and January 5, 1944.

**PRODUCT:** Analysis disclosed that the product contained calcium lactate, sodium phosphate, magnesium sulfate, potassium iodide, manganese carbonate, iron albuminate, potassium chloride, sodium chloride, sodium bicarbonate, sodium sulfate, lithium carbonate, and organic matter.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements on the label of the article and in the accompanying circulars entitled "Paracelsus Food and Health" and "Paracelsus Its Aim and Object with regard to Food and Health" were false and misleading since they represented and suggested that the article was of substantial value as a dietary supplement in respect to the mineral elements calcium, chlorine, iron, iodine, lithium, manganese, magnesium, phosphorus, potassium, sodium, sulfur, silicon, and copper; that those elements are not ordinarily present in adequate amounts in the average diet; that the article would correct all disorders arising from dietary deficiencies; and that the article was a combination of inorganic minerals and would supply minerals necessary in normal nutrition in most desirable proportions. The article was not of substantial value as a dietary supplement in respect to the mineral elements mentioned; those elements are ordinarily present in adequate amounts in the average diet; the article would not correct all disorders arising from dietary deficiencies; and it was not a combination of inorganic minerals that would supply minerals necessary in normal nutrition in most desirable proportions.

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its mineral properties in respect of calcium, phosphorous, iron, and iodine, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for calcium, phosphorus, iron, and iodine which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1724.

**DISPOSITION:** November 26, 1945. A plea of guilty having been entered, the court imposed a fine of \$100 on each of 6 counts.

**9180. Misbranding of Hollie-Whey. U. S. v. Tom Cox. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 15547. Sample No. 54292-F.)**

**INFORMATION FILED:** August 20, 1945, Southern District of California, against Tom Cox, trading under the name Tom Cox, Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about August 1, 1944, from the State of California into the State of Colorado.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, calcium, had been in part omitted from the article since it was represented on its label as containing, in 6 heaping teaspoonfuls, 1,200 milligrams of calcium or 160 percent of the minimum daily adult requirement for calcium, whereas it contained not more than 395 milligrams of calcium in 6 heaping teaspoonfuls, which is not more than 54 percent of the minimum daily adult requirement for calcium.

**DISPOSITION:** September 24, 1945. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$100.

**9181. Misbranding of Calwhey. U. S. v. Christian L. Neubert (the Calwhey Co.). Plea of guilty. Fine, \$50. (F. D. C. No. 11392. Sample No. 12275-F.)**

**INFORMATION FILED:** June 10, 1944, Northern District of California, against Christian L. Neubert, trading as the Calwhey Co., San Francisco, Calif.



**ALLEGED SHIPMENT:** On or about May 13, 1943, from the State of California into the State of Washington.

**PRODUCT:** Examination disclosed that the product consisted essentially of dried whey.

**NATURE OF CHARGE:** Misbranding, Section 403 (a). The label statements, "Lactose is the most nutritious of all sugars," and "If overweight, take immediately before meals," were false and misleading since they represented and suggested that lactose is the most nutritious of all sugars and that the article would be efficacious in the reduction of body weight. Lactose is no more nutritious than other sugars, and the article would not be efficacious in the reduction of body weight. The label statements, "provides energy \* \* \* necessary to replace and rebuild worn out muscle and other tissues and body cells," were misleading since they suggested and created the impression that consumption of the article is necessary to normal nutrition; that the normal diet needs to be supplemented by the article, or a similar food, in order to obtain sufficient energy and to obtain sufficient materials to replace and rebuild worn out muscle and other tissues and body cells; and that the article was of special and peculiar value in supplying the body with energy and materials to replace and rebuild worn out muscle and other tissues and body cells. Consumption of the article is not necessary to normal nutrition. The normal diet need not be supplemented by the article, or a similar food, since it contains sufficient energy producing and muscle, tissue, and cell building substances. Furthermore, the article did not possess the special and peculiar value implied in the labeling since it consisted of dried whey, which contains nutritive substances common to many foods.

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its vitamin properties in respect of riboflavin and its mineral properties in respect of calcium and phosphorus, and its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for riboflavin, calcium, and phosphorus which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1778.

**DISPOSITION:** June 23, 1944. A plea of guilty having been entered, the court imposed a fine of \$25 on each of 2 counts.

**9182. Misbranding of Earp Minerals. U. S. v. George H. Earp-Thomas (Earp Laboratories). Plea of guilty. Fine, \$50. (F. D. C. No. 15569. Sample No. 82867-F.)**

**INFORMATION FILED:** August 3, 1945, District of New Jersey, against George H. Earp-Thomas, an individual trading as Earp Laboratories, Bloomfield, N. J.

**ALLEGED SHIPMENT:** On or about August 4, 1944, from the State of New Jersey into the State of New York.

**PRODUCT:** Examination showed that the article was a very dilute solution of sodium and potassium carbonates, potassium phosphate, magnesium sulfate, and traces of ferrous and copper malate.

**LABEL, IN PART:** "Earp Minerals."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "For Increasing Mineral Nutrition Contains: Potassium, Sodium, Magnesium, Phosphorus, Iron and Copper \* \* \* Normal dose half teaspoonful in half glass of water or according to physician's directions. Never take undiluted," were false and misleading since they represented and suggested that the article, when used in the dosage directed and suggested, contained the minerals necessary in human nutrition in amounts sufficient to contribute in an important respect to the requirements of the body. The article would not supply the minerals necessary to human nutrition in the amounts represented and suggested since it contained no significant amount of any mineral.

**DISPOSITION:** September 21, 1945. A plea of guilty having been entered, the defendant was fined \$50.



**9183. Misbranding of Delamer. U. S. v. Frank E. Birtwhistle (Del Monte Laboratories). Plea of nolo contendere. Fine, \$2. (F. D. C. No. 12581. Sample No. 36512-F.)**

**INFORMATION FILED:** January 17, 1945, Northern District of California, against Frank E. Birtwhistle, trading as the Del Monte Laboratories, Monterey, Calif.; information amended April 9, 1945.

**ALLEGED SHIPMENT:** On or about September 9, 1943, from the State of California into the State of Utah.

**PRODUCT:** The product was ocean water to which had been added small amounts of calcium acetate, iron chloride, and potassium iodide.

**LABEL, IN PART:** "Delamer A Mineralized Water \* \* \* Ocean Sea Water Specially Processed."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statements in the circulars accompanying the article were misleading since they represented, suggested, and implied that the "wearing out" of the body, as evidenced by the slowing of the function of the blood, lack of vitality and pep, general poor physical condition, and lack of mental vigor, is usually the result of lack of minerals in the diet; that the user might reasonably expect that the consumption of the article would retard the "wearing out" processes of the body and prolong life; that it would prevent the slowing of the function of the blood; that it would restore vitality and pep and improve the general physical condition and mental vigor; and that the article was a rich source of all minerals. The "wearing out" of the body is a natural process with which lack of minerals is not ordinarily associated; the conditions referred to in the labeling are not usually the result of a lack of minerals in the diet, but result from many and varied causes; the user might not reasonably expect that the consumption of the article would prevent or correct such conditions, since it would not be ordinarily efficacious for such purposes; and the article was not a rich source of all minerals.

Further misbranding, Section 403 (a), certain statements in the circulars were misleading since they represented and suggested that the ordinary diet of children does not provide them with calcium in amounts sufficient to attain normal growth; that the ordinary diet does not contain sufficient minerals for the normal needs of the body; that it is necessary to supplement the ordinary diet with additional minerals; and that it is practically impossible to obtain foods which contain sufficient minerals for the needs of the body. The ordinary diet of children provides them with calcium in amounts sufficient to attain normal growth; the ordinary diet does contain sufficient minerals for the normal needs of the body; and it is not necessary to supplement the ordinary diet with additional minerals, since the foods in the ordinary diet contains sufficient minerals for the normal needs of the body.

The article was also charged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1779.

**DISPOSITION:** October 2, 1945. The defendant having entered a plea of nolo contendere, a fine of \$1 on each count was imposed, a total fine of \$2.

**9184. Adulteration and misbranding of Bagdol and B-Iron (vitamin preparations). U. S. v. Irwin, Neisler and Co. Plea of guilty. Fine of \$100. (F. D. C. No. 14314. Sample Nos. 61584-F, 61585-F.)**

**INFORMATION FILED:** March 27, 1945, Southern District of Illinois, against Irwin, Neisler and Co., a corporation, Decatur, Ill.; information amended May 1, 1945.

**ALLEGED SHIPMENT:** On or about June 30 and July 11, 1944, from the State of Illinois into the State of Texas.

**LABEL, IN PART:** "Bagdol," and "B-Iron."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents had been in part omitted from the articles in that each tablet of the Bagdol was represented to contain 1.5 milligrams of vitamin B<sub>1</sub>, whereas each tablet contained not more than 0.58 milligram of vitamin B<sub>1</sub>; and each tablet of the B-Iron was represented to contain 1,000 International Units of vitamin B<sub>1</sub>, whereas each tablet contained not more than 800 International Units of vitamin B<sub>1</sub>.



Misbranding, Section 403 (a), (Bagdol) the label statement, "Each tablet contains vitamin B<sub>1</sub> 1½ x M. D. R. 1.5 mg.," was false and misleading since it represented that each tablet of the article contained 1.5 milligrams of vitamin B<sub>1</sub> and would furnish 1½ times the minimum daily requirements for this vitamin, whereas each tablet contained not more than 0.58 milligram of vitamin B<sub>1</sub> and would furnish not more than 58 percent of the minimum daily requirement for vitamin B<sub>1</sub>; and (B-Iron) the label statement, "Each tablet contains Vitamin B<sub>1</sub> 1,000 Int. Units \* \* \* 1 tablet furnishes three times the minimum daily requirement of vitamin B<sub>1</sub>," was false and misleading since each tablet contained not more than 800 International Units of vitamin B<sub>1</sub> and would furnish not more than 2.40 percent of the minimum daily requirement for this vitamin.

**DISPOSITION:** December 1, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

**9185. Adulteration and misbranding of Vitiliver Capsules. U. S. v. Myron L. Walker Co., Inc. Plea of guilty. Fine, \$500 on count 1; sentence suspended on counts 2, 3, and 4. (F. D. C. No. 15593. Sample Nos. 63385-F, 63910-F.)**

**INFORMATION FILED:** October 2, 1945, Southern District of New York, against the Myron L. Walker Co., Inc., Mount Vernon, N. Y.

**ALLEGED SHIPMENT:** Between the approximate dates of March 3 and September 21, 1944.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents had been in whole or in part omitted or abstracted from the article since the product in one shipment was represented to contain 0.50 milligram of vitamin B<sub>1</sub> per capsule, but contained not more than 0.24 milligram of vitamin B<sub>1</sub> per capsule; and the product in the other shipment was represented to contain, in each capsule, 100 International Units of vitamin B<sub>1</sub>, equivalent to 0.3 milligram of thiamine and 10 Sherman Bourquin Units of vitamin B<sub>2</sub> (riboflavin), but contained not more than 25 International Units of vitamin B<sub>1</sub>, equivalent to not more than .069 milligram of thiamine and approximately 2 Sherman Bourquin Units of vitamin B<sub>2</sub> per capsule.

Misbranding, Section 403 (a), the label statements, (portion) "In each capsule \* \* \* Vitamin B<sub>1</sub> (Thiamine Hydrochloride) .50 mg.," and (remainder) "In each capsule \* \* \* Vitamin B<sub>1</sub> (Thiamin 0.3 Mg.) 100 Int. Units Vitamin B<sub>2</sub> (Natural) 10 Sher. Bourq. Units," were false and misleading.

Further misbranding, Section 403 (j), the article purported to be and was represented for special dietary uses by man by reason of its vitamin properties in respect of vitamin B<sub>1</sub>, vitamin B<sub>2</sub>, vitamin C, vitamin B<sub>6</sub>, and all other B complex factors, and by reason of its mineral property in respect of iron, and its label failed to bear, as prescribed by the regulations, a statement of the proportion of the minimum daily requirements of vitamin B<sub>1</sub>, vitamin B<sub>2</sub> (riboflavin), vitamin C, and iron which would be supplied by the article when consumed in a specified quantity during a period of 1 day; and the label did not bear a statement of the quantity of vitamin B<sub>6</sub> and other B complex factors which would be furnished by a specified quantity of the article when consumed during a period of 1 day. Furthermore, the need for vitamin B<sub>6</sub> and factors of the B complex other than vitamin B<sub>1</sub> and vitamin B<sub>2</sub> and niacin not having been established, the label failed to bear, as required by the regulations, the statement that "The need for Vitamin B<sub>6</sub> and factors of the B-complex other than vitamin B<sub>1</sub>, B<sub>2</sub> and niacin in human nutrition has not been established.

**DISPOSITION:** October 11, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 on count 1 and suspended sentence on the other 3 counts.

**9186. Misbranding of wheat germ. U. S. v. Ener-G Cereal Corporation. Plea of guilty. Fine, \$25. (F. D. C. No. 15573. Sample No. 74827-H.)**

**INFORMATION FILED:** October 11, 1945, Western District of Washington, against the Ener-G Cereal Corporation, Seattle, Wash.

**ALLEGED SHIPMENT:** On or about October 10, 1944, from the State of Washington into the State of California.

**LABEL, IN PART:** "Jolly Joan Analyzed Wheat Germ."



**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "Average amount per oz. (28.4 Grams) or 2 heaping tablespoons Vitamin B<sub>1</sub> (U. S. P. or International Units) 414.8 \* \* \* Niacin \* \* \* (Milligrams) 1.95," were false and misleading since 1 ounce (28.4 grams) or 2 heaping tablespoons of the article contained not more than 250 U. S. P. or International Units of vitamin B<sub>1</sub> and not more than 1.33 milligrams of niacin.

Further misbranding, Section 403 (a), the labeling was misleading since the statement, "Contains Vitamins \* \* \* G & E" represented and suggested that the article, when used as directed or as customarily consumed, would supply an appreciable amount of vitamin G, and that the need for vitamin E in human nutrition has been established; and the labeling failed to reveal the fact, material in the light of the above statement, that the article would supply an inconsequential amount of vitamin G and that the need for vitamin E in human nutrition has not been established.

Further misbranding, Section 403 (j), the article purported to be and was represented for special dietary uses by man by reason of its vitamin properties in respect of vitamin A, vitamin B<sub>1</sub>, riboflavin, and vitamin E, and by reason of its mineral properties in respect of iron, calcium, and phosphorus, and its label did not bear a statement, as required by regulations, of the proportion of the minimum daily requirements for vitamin A, vitamin B<sub>1</sub>, and riboflavin which would be supplied by the article when consumed in a specified quantity during a period of 1 day, nor a statement of the proportion of the minimum daily requirements for iron, calcium, and phosphorus which would be supplied by the article when consumed in a specified quantity during a period of 1 day. Furthermore, the label failed to bear, as required by the regulations, the statement that "The need for vitamin E in human nutrition has not been established."

**DISPOSITION:** November 12, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25.

**9187. Adulteration and misbranding of vitamin capsules. U. S. v. 7 Drums of ABDG Capsules. Default decree of condemnation and destruction.** (F. D. C. No. 16434. Sample No. 16227-H.)

**LIBEL FILED:** June 22, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 3, 1945, by the Keith-Victor Pharmacal Co., from St. Louis, Mo.

**PRODUCT:** 7 drums containing 200,000 vitamin capsules at Chicago, Ill. Examination showed that the product contained not more than 50 percent of the declared amount of vitamin B<sub>1</sub>.

**LABEL, IN PART:** "Sugar Coated Brown ABDG Spheroid Gelatin Capsules."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement, "Each Spheroid Contains: \* \* \* Vitamin B<sub>1</sub> (Thiamin Chloride USP) 333 I. U. 1 Mg.," was false and misleading.

**DISPOSITION:** November 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9188. Misbranding of Hi-Lo Vitamin and Mineral Tablets. U. S. v. 41 Bottles of Hi-Lo Vitamin and Mineral Tablets, and a quantity of printed matter. Default decree of condemnation and destruction.** (F. D. C. No. 16639. Sample No. 29574-H.)

**LIBEL FILED:** June 25, 1945, Northern District of California.

**ALLEGED SHIPMENT:** By Hi-Lo Products, from St. Louis, Mo. The tablets were shipped on or about July 12, 1944, and February 13, 1945, and the printed matter was shipped on or about May 22, 1944.

**PRODUCT:** 24 32-tablet bottles, 5 100-tablet bottles, and 12 300-tablet bottles of Hi-Lo Vitamin and Mineral Tablets at San Francisco, Calif., together with 4,000 circulars entitled "Why Run Around in Circles Trying to Get All the Vitamins Needed" and a window display poster entitled "Vitamins and Minerals are Foods."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading. The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1791, in which are set forth



the label of the article and the false and misleading statements referred to above.

**DISPOSITION:** September 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product, together with the printed matter, was ordered destroyed.

**9189. Misbranding of Ritamine Capsules. U. S. v. 479 Packages of Ritamine Capsules, and a quantity of printed matter. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 16043. Sample No. 2856-H.)**

**LIBEL FILED:** April 18, 1945, District of Columbia.

**PRODUCT:** 144 150-capsule packages, 260 70-capsule packages, and 75 20-capsule packages of Ritamine Capsules, offered for sale by the Vita Health Food Co. at Washington, D. C., together with a number of accompanying leaflets and placards entitled "This Box of Ritamine," leaflets entitled "American Dietaids Company, Inc., Yonkers, N. Y.," and placards entitled "Its Dangerous to diet Without Vitamin-Mineral Insurance."

Examination showed that the product consisted of black capsules and brown capsules. The black capsules contained various vitamins, including vitamin A, vitamin B<sub>1</sub>, vitamin B<sub>2</sub>, vitamin C, and niacinamide. The brown capsules contained various mineral salts, including calcium, phosphorus, iodine, and iron compounds. The information concerning the vitamin and mineral properties, required by the regulations prescribed under Section 403 (j) as necessary in order fully to inform purchasers as to the value of the product for special dietary uses, was printed inconspicuously on the bottle of the carton.

**LABEL, IN PART:** "American Dietaids' Ritamine \* \* \* Vitamin and Mineral Capsules \* \* \* American Dietaids Company, Inc., Yonkers, N. Y."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the following statements and design in the leaflet and placard entitled "This Box of Ritamine" were false and misleading since the amounts of vitamins and minerals which would be supplied by 35 each of the two types of capsules would not exceed that which would be supplied by hundreds of pounds of the various articles commonly used for food: (Picture of a box containing two groups of 35 capsules each, labeled "Ritamine") "This Box of Ritamine gives you the benefit of All the known needed Vitamins and All the essential Minerals found in hundreds of pounds of fresh vegetables, fruits, milk and other foods [design of a rural scene, including a woman holding a basket of fruits and vegetables]."

Further misbranding, Section 403 (a), the following statements in the placard entitled "It's Dangerous to Diet Without Vitamin Mineral Insurance" were false and misleading since the amounts of vitamins and minerals which would be supplied by 2 capsules of the article would not exceed those which would be supplied by pounds of food selected from various articles commonly used as food: "2 tiny Ritamine Capsules gives you all of 9 Vitamins and 9 Minerals found in Pounds of selected foods without fattening calories or other food elements."

Further misbranding, Section 403 (a), certain statements and designs appearing in the leaflet were misleading since they represented and suggested that the article would supply 8 vitamins and 9 minerals of nutritional importance; that it is difficult, if not impossible, to obtain sufficient vitamins and minerals from a diet of common foods; and that the use of the article would prevent or correct the following conditions: Loss of ability to resist infections, particularly of the ears, eyes, nose, and sinus; unsatisfactory functioning of glands; inability of expectant mothers to nourish the embryonic baby; dryness and scaliness of the skin and loss of its sensitivity to touch; loss of ability to see clearly in a dim light; failure of the muscles of the stomach and intestines to function normally; failure to satisfactorily burn the starch and sugar in the food one eats and turn them into required body fuel; loss of appetite; inability of food to oxidize properly in the tissues; tendency of the blood capillaries to become fragile and bleed; pain around the joints; loose and decayed teeth; failure of nerve impulses to be properly transmitted to the muscles, causing a jumpy nervous system; faulty heart rhythm; failure of the blood to clot well; kidney stones, poor bones, and decaying teeth; loss of tissue tone and unhealthy condition of the skin; digestive disturbances and a tendency toward colitis; cataract, loss of hair, and unhealthy loss of weight; and imperfectly formed and maintained tooth enamel. The article would not supply



8 vitamins and 9 minerals of nutritional importance; it is not difficult or impossible to obtain sufficient vitamins and minerals from a diet of common foods; and the use of the article would not prevent or correct the diseases, abnormalities, and symptoms stated and implied in the leaflets.

Further misbranding, Section 403 (f), the information required by Section 403 (j) to appear on the label was not prominently placed thereon with such conspicuousness (as compared with other statements on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since the required information appeared inconspicuously on the bottom of the cartons.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1684.

**DISPOSITION:** August 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

**9190. Adulteration and misbranding of multiple vitamin capsules. U. S. v. 66 Boxes and 44 Boxes of Multiple Vitamin Capsules. Default decree of condemnation and destruction. (F. D. C. No. 16707. Sample No. 13648-H.)**

**LIBEL FILED:** July 26, 1945, Eastern District of Tennessee.

**ALLEGED SHIPMENT:** On or about February 8, 1945, by the Rex Vitamin Corporation, from Cleveland, Ohio.

**PRODUCT:** 66 boxes, each containing 100 capsules, and 44 boxes, each containing 50 capsules, of multiple vitamins at Knoxville, Tenn.

Assay showed that the product was more than 50 percent deficient in vitamins B<sub>1</sub> and C. The information concerning the vitamin properties of the product was printed on the bottom of the box.

**LABEL, IN PART:** "Soluble Gelatin Capsules Biologically Standardized Optimals Special Formula Multiple Vitamin Capsules."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamins B<sub>1</sub> and C, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label statements, "Each one of these special formula capsules contains \* \* \* Vitamin B<sub>1</sub> (Thiamin Hydrochloride) 10 Mg. (3,330 U. S. P. Units) 10 times daily requirement \* \* \* Vitamin C (Ascorbic Acid) 100 Mg. (2,000 U. S. P. Units) 3½ times daily requirement," were false and misleading as applied to a product which contained less than the stated amounts of vitamins B<sub>1</sub> and C and which would not provide the stated proportions of the minimum daily requirements for such vitamins; and, Section 403 (a), the label statement, "An ultra high potency multiple vitamin capsule containing unusually large amounts of the essential vitamins and the B complex," was misleading as applied to a product which did not supply vitamins A, D and E and niacinamide in amounts greater than those frequently found in vitamin capsules.

Further misbranding, Section 403 (a), the label statements, "Official minimum daily adult requirement (Federal Food and Drug Administration) Vitamin B<sub>6</sub> (Pyridoxine Hydrochloride) Not as yet established, Calcium Pantothenate Not as yet established, Vitamin E (Wheat Germ Oil) Not as yet established," were misleading since they suggested that the need for the stated substance is generally recognized, although the amounts required daily have not been established, whereas the need for such substances in human nutrition has not been established; and, Section 403 (f), information concerning the vitamin properties of the article, prescribed by regulations, was not prominently placed on the label with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

**DISPOSITION:** September 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9191. Adulteration and misbranding of vitamin capsules. U. S. v. 9 Vials of Halibut Liver Oil Capsules and 19 Packages of Vitamin A, B, D, and G Capsules. Default decree of condemnation. Products ordered delivered to a public institution. (F. D. C. No. 15318. Sample Nos. 2707-H, 2709-H.)**

**LIBEL FILED:** February 26, 1945, District of Columbia.



**ALLEGED SHIPMENT:** On or about February 3, 1942, and October 11, 1943, by the Burrough Brothers Manufacturing Co., from Baltimore, Md.

**PRODUCT:** 9 vials of halibut liver oil capsules and 19 packages of vitamins A, B, D, and G capsules at Washington, D. C.

**LABEL, IN PART:** "Silver Line Halibut Liver Oil," or "Silver Line Vitamin A, B, D, & G capsules."

**NATURE OF CHARGE:** *Halibut liver oil capsules.* Adulteration, Section 402 (b) (1), a valuable constituent, vitamin A, had been in part omitted or abstracted from the article. Misbranding, Section 403 (a), the label statements, (vial) "One capsule contains not less than 5000 U. S. P. units of vitamin A" and (carton) "1 capsule contains at least 5000 U. S. P. units of vitamin A," were false and misleading since the product did not contain the stated amount of vitamin A.

*Vitamins A, B, D, and G capsules.* Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the article. Misbranding, Section 403 (a), the label statements, "Each capsule contains not less than \* \* \* Vitamin B<sub>1</sub> (thiamin chloride) 200 U. S. P. units" and "The maximum dose supplies not less than the adult minimum daily requirements of vitamins \* \* \* B<sub>1</sub>," were false and misleading since the article did not contain or supply the stated amount of vitamin B<sub>1</sub>.

**DISPOSITION:** April 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

**9192. Misbranding of vitamin B complex tablets and vitamin and mineral tablets. U. S. v. 76 Packages of Vitamin B Complex Tablets, etc. Default decree of condemnation and destruction. (F. D. C. No. 16285. Sample Nos. 6327-H, 6328-H.)**

**LIBEL FILED:** May 29, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 19, 1945, by the City Food Mart, Fort Atkinson, Wis.

**PRODUCT:** 76 packages of vitamin B complex tablets, 119 packages of vitamin B complex with added thiamine, and 55 packages of vitamin and mineral tablets at New York, N. Y. Also approximately 50 leaflets entitled "Buoyant Health for All the Family," 50 leaflets entitled "For Your Health's Sake," 6 display racks entitled "Feel Fit as a Major," and 12 circular display cards entitled "Ask for Major-B Brand."

**LABEL, IN PART:** "Major-B Natural Vitamin B Complex Tablets [1 lot further labeled "with Added Thiamine"]," or "Major Vitamins and Minerals Vitamins A B<sub>1</sub> D with Calcium Phosphorus Iron."

**NATURE OF CHARGE:** *Vitamin B complex tablets and vitamin B complex tablets with added thiamine.* Misbranding, Section 403 (a), certain statements in accompanying leaflets entitled "Buoyant Health for All the Family" and "Vitamins for Victory," and on the display racks, were false and misleading since they created the impression that the articles would be effective to provide greater energy, steadier nerves, better digestion, improved health and vigor, better appetite, insurance from vitamin deficiencies, physical well-being, and protection against frequent colds, constipation, fatigue, digestive upsets, and other common ills; that they would provide the vitamins found in whole wheat bread, eggs, milk, liver, and tomato juice; that they contained nutritionally significant amounts of all vitamins of the B complex; that there are widespread dietary deficiencies that would be corrected by use of the articles; that ordinary foods are unreliable sources of vitamins; and that it is desirable, if not necessary, to supplement the ordinary diet with such vitamins. The articles would not fulfill the promises of benefit stated and implied, and it is not true that there are widespread dietary deficiencies that would be corrected by use of the articles and that ordinary foods are unreliable sources of vitamins.

*Vitamin and mineral tablets.* Misbranding, Section 403 (a), certain statements in the leaflet entitled "For Your Health's Sake" were false and misleading since they created the impression that the article would be effective to provide vigor, health, and energy; that it would build resistance to colds; that it would prevent fatigue; that it would be effective in the treatment and prevention of nervousness, improper digestion, poor appetite, loss of weight, constipation, night blindness, premature aging, and poor teeth and gums; that



it would be effective to provide the vitamins and minerals found in eggs, milk, chicken, cabbage, and cottage cheese; and that foods are unreliable sources of vitamins, and, therefore, it is desirable, if not necessary, to supplement the diet with the article. The article would not be effective for the purposes stated; there are no widespread dietary deficiencies that would be corrected by the use of the article; the article would not supply the vitamins and minerals found in the foods named; and foods are reliable sources of vitamins and minerals.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1682.

**DISPOSITION:** June 20, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**9193. Misbranding of vitamin B complex tablets. U. S. v. 38 Bottles of High Potency Vitamin B Complex Tablets, and a number of circulars. Default decree of condemnation and destruction. (F. D. C. No. 16638. Sample No. 27914-H.)**

**LIBEL FILED:** June 25, 1945, District of Oregon.

**ALLEGED SHIPMENT:** The article was shipped on or about March 14, 1945, and the circulars were shipped during the year 1943 by Nature's Minerals Co., from Indianapolis, Ind.

**PRODUCT:** 38 bottles of vitamin B complex tablets and a number of accompanying circulars entitled "High Potency Vitamin B Complex," at Portland, Oreg. Analysis showed that the product would supply the declared ingredients.

**LABEL, IN PART:** "High Potency Vitamin B Complex \* \* \* Each Tablet contains the minimum adult daily requirement of vitamin B-1;  $\frac{1}{4}$  that of B-2;  $\frac{3}{8}$  that of Iron. The two tablets containing 10 mg. Nicotinic Acid and Riboflavin 0.10 mgms."

**NATURE OF CHARGE:** Misbranding 403 (a), the label statement, "High Potency Vitamin B Complex," was false and misleading as applied to an article which would supply only the minimum adult daily requirement of vitamin B<sub>1</sub> and smaller proportions of other vitamins in the B complex; and certain statements in the circular were false and misleading since they represented and suggested that the article would be effective in preventing or overcoming general vitamin deficiencies and in improving health. The article would not be effective for such purposes.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices, No. 1790.

**DISPOSITION:** September 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product and circulars were ordered destroyed.

**9194. Adulteration and misbranding of Kent Vitamin Capsules. U. S. v. 124 Display Cards Holding 25 Packages of Kent Vitamin Capsules. Default decree of condemnation and destruction. (F. D. C. No. 12098. Sample No. 43288-F.)**

**LIBEL FILED:** March 29, 1944, District of Nebraska.

**ALLEGED SHIPMENT:** On or about January 26 and August 6, 1943, by the Cupples Co., from St. Louis, Mo.

**PRODUCT:** 124 display cards, each holding 25 packages, of Kent Vitamin Capsules, at Omaha, Nebr. Samples of the product were found to contain not more than 266 units of vitamin B<sub>1</sub> and not more than 240 units of vitamin D per capsule.

**LABEL, IN PART:** "Kent Vitamins A B<sub>1</sub> D. Each soluble gelatine capsule contains not less than \* \* \* Vitamin B<sub>1</sub> 333 U. S. P. Units \* \* \* Vitamin D 400 U. S. P. Units."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub> and vitamin D, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), certain statements in the labeling were false and misleading since the article would not be effective in keeping the individual



fit, in building resistance to infectious disease, in bringing about normal functioning of the nerve tissues and proper assimilation of food, or in helping the formation of strong bones and sound teeth, as was represented and suggested by the statements; nor did the article have the vitamin B<sub>1</sub> and vitamin D potencies claimed in the labeling.

**DISPOSITION:** November 14, 1945. The Cupples Co. having withdrawn its claim previously filed, judgment of condemnation was entered and the product was ordered destroyed.

**9195. Adulteration and misbranding of vitamin tablets. U. S. v. 42 Bottles of Vitamin Tablets. Default decree of condemnation and destruction.** (F. D. C. No. 16011. Sample Nos. 14725-H, 17624-H.)

**LIBEL FILED:** May 5, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about April 5, 1945, by David V. Bush, Fort Wayne, Ind.

**PRODUCT:** 42 bottles of vitamin tablets at Detroit, Mich. Examination showed that the product contained approximately 1,200 U. S. P. units of vitamin A and approximately 216 U. S. P. units of vitamin C per 2 tablets.

**LABEL, IN PART:** "Bush's Multi-Vitamin Tablets."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamins A and C, had been omitted.

Misbranding, Section 403 (a), the label statements, "(Two tablets daily supply the following amounts and proportions to the adult minimum daily requirement amounts.) \* \* \* Vitamin A, 5,000 USP Units (125%) Vitamin C, 600 USP Units (100%)," were false and misleading since the product contained less than the stated amounts of vitamins A and C.

**DISPOSITION:** June 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9196. Misbranding of calcium pantothenate tablets. U. S. v. 48¾ Dozen Packages of Calcium Pantothenate Tablets. Default decree of condemnation and destruction.** (F. D. C. No. 16070. Sample No. 29366-H.)

**LIBEL FILED:** May 8, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about February 5, 1945, by the American Beauty Products Co., from Chicago, Ill.

**PRODUCT:** 48¾ dozen packages of calcium pantothenate tablets at San Francisco, Calif.

**NATURE OF CHARGE:** Misbranding, Section 403(a), certain statements in the accompanying catalog entitled "City Catalog No. 81," the display card entitled "Americans Anti-Gray Hair Vitamin," and circulars entitled "American Beauty Vitamins For Beauty From Within," were false and misleading since they represented and suggested that the article would be efficacious to restore the natural hair color and to improve skin conditions, brittle nails, and hair strength, whereas the article would not be efficacious for those purposes.

**DISPOSITION:** August 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9197. Misbranding of Capab Tablets. U. S. v. 27 Bottles of Capab Tablets, and a number of folders and leaflets. Default decree of condemnation and destruction.** (F. D. C. No. 16068. Sample No. 4124-H.)

**LIBEL FILED:** April 27, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** By the Battle Creek Dietetic Supply Co., from Battle Creek, Mich. The product was shipped on or about March 6 and 12, 1945, and the folders and leaflets were shipped on various unknown dates.

**PRODUCT:** 14 50-tablet bottles and 13 100-tablet bottles of Capab Tablets, 500 folders entitled "Superb Health," and 150 leaflets entitled "Gray Hair," at Philadelphia, Pa.

Examination showed that the tablets contained, chiefly, yeast, thiamine chloride, and a calcium salt.

**LABEL, IN PART:** "Health House Capab."

**NATURE OF CHARGE:** Misbranding, Section 403(a), certain statements on the label and in the folders and leaflets were false and misleading since they represented and suggested that the article would be effective to restore the original color to gray hair, whereas it would not be effective for that purpose.



**DISPOSITION:** May 22, 1945. No claimant having appeared, judgment of condemnation was entered and the product, together with the printed matter, was ordered destroyed.

**9198. Misbranding of Yogurt Culture. U. S. v. 141 Cartons of Yogurt Culture, and a number of circulars and leaflets. Default decree of condemnation and destruction. (F. D. C. No. 15373. Sample No. 28617-H.)**

**LIBEL FILED:** April 24, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** By the International Yogurt Co., from Los Angeles, Calif. The Yogurt Culture and some of the leaflets were shipped on or about February 16, 1945; the circulars were shipped on or about February 14, 1945; and the remainder of the leaflets were shipped at some time prior to the shipment of the merchandise.

**PRODUCT:** 141 cartons of Yogurt Culture, a number of leaflets entitled "Keep Young," and a number of circulars entitled "The Secret of Youth," at Seattle, Wash. Examination disclosed that the product was a culture of viable lacto-bacilli.

**LABEL, IN PART:** (Cartons) "Rosell Institute's Original Yogurt Culture."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements on the cartons and in the leaflets and circulars were false and misleading since they represented and suggested that use of the article would be effective to enable one to keep young, to attain to an old age, and to add years to one's life; and that its use would combat excessive intestinal putrefaction, prevent the growth of harmful, putrefactive bacteria, be of benefit in many types of gastro-intestinal disturbances, and promote beauty. The article would not be efficacious for such purposes.

It was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1786.

**DISPOSITION:** September 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product and the stock of leaflets and circulars were ordered destroyed.

**9199. Misbranding of sea kelp. U. S. v. 16 Bottles of Sea Kelp and 1,300 Circulars. Default decree of condemnation and destruction. (F. D. C. No. 16295. Sample No. 4461-H.)**

**LIBEL FILED:** May 25, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 11, 1945, from Zeeland, Mich., by the Kelp Co.

**PRODUCT:** 8 500-tablet bottles and 8 200-tablet bottles of sea kelp and 1,300 circulars entitled "Food Minerals From the Sea," at Paoli, Pa.

**LABEL, IN PART:** "Pure Sea Kelp Dehydrated Macrocytis Pyrifera 5 Grain Tablets."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading. The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1784, in which are set forth the analysis of the article and the false and misleading statements referred to above.

**DISPOSITION:** October 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9200. Misbranding of Di-Ettes. U. S. v. 32 Bottles of Di-Ettes and 50 Leaflets. Default decree of condemnation and destruction. (F. D. C. No. 15801. Sample No. 22126-H.)**

**LIBEL FILED:** April 5, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** By Professional Foods, from Cedar Rapids, Iowa. The product was shipped on or about November 17, 1944. The leaflets were shipped separately and were received by the consignee several days after the receipt of the product.

**PRODUCT:** 32 bottles, each containing 180 tablets, of Di-Ettes and 50 leaflets entitled "Introducing Di-Ettes," at St. Louis, Mo. Examination of a sample showed that the product consisted chiefly of vegetable extracts, vegetable gums, salt, and a tablet binder.



**NATURE OF CHARGE:** Misbranding, Section 403 (a), the following statements in the leaflets were misleading in that they represented and suggested that the product was of significant nutritional value for the dietary treatment of allergies, for reducing, and for diabetes, when, as a matter of fact, it was not:

"1. Allergies. \* \* \* Di-Ettes has most of its protein content in the form of non-allergenic Amino Acids it is well adapted for this type of diet. \* \* \*

2. Reducing. \* \* \* Many products \* \* \* are usually lacking in proteins as well, with no Amino Acids to act as veritable 'building stones' of muscle and cell growth, present. When important quantities of fatty tissue are removed, the surrounding structure is apt to become loose and flabby, unless the cells are sufficiently well-fed, so that normal cell regeneration is possible. A resulting sense of good health, firm muscle tone, etc., results only when there is this simultaneous re-growth and reformation of healthy wanted tissue, along with the loss of unwanted tissue. Therefore in a reducing regime, as many of the Di-Ettes Tablets as desired, should be eaten in place of one meal per day. Do not allow the rebuilding factors—Amino Acids—to become unavailable under such a program. 3. Diabetes. As a supplier of nourishment in a form that the diabetic can utilize and assimilate, with low-calorie, particularly no sugar, and pre-digested protein (Amino Acids) Di-Ettes lends itself very well to that patient. \* \* \*

**DISPOSITION:** May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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<sup>1</sup> (9114, 9118) Seizure contested.

<sup>2</sup> (9178) Prosecution contested.

<sup>3</sup> (9139) Seizure contested. Contains opinion of the court.

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<sup>1</sup> (9114, 9118) Seizure contested.  
<sup>2</sup> (9178) Prosecution contested.  
<sup>3</sup> (9139) Seizure contested. Contains opinion of the court.



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<sup>1</sup>(9114, 9118) Seizure contested.<sup>2</sup>(9178) Prosecution contested.

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butter-----	9073	Harcourt Greene Co.:	
Eckhart, B. A., Milling Co.:		Greek olives-----	9106
flour and corn meal-----	9022	Harrison, Helen Co.:	
Eddington Canning Co.:		french dressing-----	9153
canned corn-----	9116	Hewitt, Walter A., Candy Co.:	
Encinal Terminals:		candy-----	9050
peperoncini (canned peppers)	9128	Heyd, C. G., & Co.:	
Ener-G Cereal Corp.:		butter-----	9063
wheat germ-----	9186	Hi-Lo Products:	
Evans Honey Co.:		Hi-Lo Vitamin and Mineral	
honey-----	9053	Tablets-----	9188
Fair Oaks Fruit Corp.:		Hodges Candy Co.:	
Greek olives-----	9106	corn flakes-----	9028
Farmers' Equity Co-operative		Hollywood Creamery Co.:	
Creamery Assoc.:		butter-----	9060
butter-----	9061	Hunter Walton & Co.:	
Farmersfriend Products, Inc.:		butter-----	9064
lingonberry preserves-----	9104	International Yogurt Co.:	
Featherweight Foods, Inc.:		Yogurt Culture-----	9198
frozen eggs-----	9079	Irwin, Neisler & Co.:	
Feeser, A. W., and Co.:		Bagdol and B-Iron-----	9184
canned peas-----	9125	Italian Importing Corp.:	
Fettig Canning Corp.:		wine vinegar-----	9113
tomato catsup-----	9137	Jefferson Creamery, Inc.:	
Finch, T. W., & Co.:		butter-----	9059
Salad-Aise-----	9154	Johnston, J. D., Jr., Co.:	
Finer Foods Packing Corp.:		peanut butter-----	9148
tomato sauce-----	9140	Jones, Edward:	
Fitger Brewing Co.:		corn meal-----	9017
brewer's corn grits-----	9030	June Dairy Products Co., Inc.:	
Foote Bros. Co.:		butter-----	9065
beans with pork and tomato		Junge Biscuit Co. <i>See</i> Junge	
sauce-----	9115	Cracker Co.	
Frankel, Karl:		Junge Cracker Co.:	
candy-----	9043	cracker meal-----	9031
Frost King Foods, Inc.:		Kalina, J. F.:	
frozen cod fillets-----	9083	dried mushrooms-----	<sup>1</sup> 9118
Galati Packing Co.:		Keith-Victor Pharmacal Co.:	
peperoncini (canned peppers)	9128	ABDG Vitamin Capsules-----	9187
Gandrud Creamery:		Kelp Co.:	
butter-----	9067	sea kelp-----	9199
Gann Products Co.:		Kirkley, J. Ralph, Inc.:	
dried mushrooms-----	9119	candy-----	9046
General Products Co.:		Kleppe, K. O., & Co.:	
black pepper-----	9163	candy-----	9044
Gervas Canning Co.:		Kobrick, Sam:	
tomato juice-----	9138	coffee-----	9004
Goldenberg, Ben, Inc.:		Kobrick's. <i>See</i> Kobrick, Sam.	
butter-----	9076	Kohman, H. A.:	
Gottfried Baking Co.:		yeast-----	9175
enriched bread-----	9010	Kokomo Packing Co.:	
Grapesugar, Ltd.:		sauerkraut-----	9134
grape sugar-----	9006	Kopper's Chocolate Specialty Co.,	
Greene, Harcourt, Co. <i>See</i> Har-		Inc.:	
court Greene Co.		candy-----	9043

<sup>1</sup> (9114, 9118) Seizure contested.



	N. J. No.		N. J. No.
Krause, Chas. A., Milling Co.:		Mineral Point Co-operative Can-	
corn grits, brewer's-----	9029	ning Co.:	
corn meal-----	9022	canned peas-----	9121
flour-----	9022	Morris Fisheries, Inc.:	
Lakeview Dairies, Inc.:		frozen fish fillets-----	9085, 9093
butter-----	9072	Moser, L. P.:	
Lanesville Creamery Co.:		canned sauerkraut-----	9132
butter-----	9068	Murdock Farmers Co-operative	
La Salle Mfg. Co. See Temkin,		Creamery Assoc.:	
L. I.		butter-----	9064
Lecroy, John, & Son:		Muro Imp. Co.:	
vanilla extract and lemon		wine vinegar-----	9113
extract-----	9168	Naples Oil Co.:	
Leibowitz Pickle Products:		olive oil-----	9159
sauerkraut-----	9133	Napolean Creamery:	
Levy, Charles:		butter-----	9073
maple sirup-----	9055	National Brokerage:	
Licorice Products Co.:		peanut butter-----	9146
candy-----	9042	Nature's Minerals Co.:	
Lion Specialty Co.:		vitamin B complex tablets---	9193
cocoa butter-----	9174	Neubert, C. L.:	
Londonderry:		Calwhey-----	9181
ice cream mix-----	9177	New Jersey Importing Co.:	
Los Angeles Nut House:		edible oils-----	9155
candy-----	9045	New Standard Baking Co.:	
Lotoro, Luigi:		cake-----	9012
dry salt-cured olives-----	9107	New Ulm Dairy:	
Lowenfels, F. F., & Son:		butter-----	9070
butter-----	9070	New Ulm Roller Mill Co.:	
Lucatelli Packing Co.:		corn meal-----	9018
edible oils-----	9155	Northern Illinois Cereal Co.:	
McGrath, H. J., Co.:		roasted oats-----	9033
beans with pork and tomato		Nutt Brothers Cookies:	
sauce-----	9115	cookies-----	9013
Mamma Mia Importing Co., Inc.:		Ol' South Extract Co.:	
edible oils-----	9157	sirup-----	9054
Maple-Tree Farm Products Co.:		Orange Products Corp.:	
pancake sirup-----	9057	orange-flavored sirup-----	9007
Marchioretto, J., & Co.:		Ossola, J., Co.:	
rennet-----	9172	olive oil-----	9159
Marvel, Stanley:		Pan American Food Products Co.:	
butter-----	9067	papaya fruit drink-----	9008
Mason, Ehrman & Co.:		Parrott & Co.:	
flour-----	9026	canned mackerel-----	9090
Memphis Pecan and Walnut Co.:		Paulus Bros. Packing Co.:	
shelled pecans-----	9150	canned prunes-----	9109
Merchants Supply Co.:		Perkins, D. A., Co.:	
flour and cream meal-----	9021	pancake sirup-----	9056, 9057
Merren & Co.:		Petry, P. H.:	
green turtles-----	9143	chili peppers-----	9130
Merrick, House of:		Petry, P. H., Co.:	
candy-----	9051	capsicum-----	9164
Metropolitan Warehouse Co.:		Pioneer Specialty Co.:	
popcorn-----	9035	candy-----	9048
starch, powdered-----	9041	Platter-Neff Co.:	
Mexican Products Co.:		candied popcorn-----	9039
chili peppers-----	9131	Plymouth Creamery Co.:	
Midland Flour Milling Co.:		butter-----	9075
flour-----	9025	Pophitt Cereal Co.:	
Milford Packing Co.:		popcorn-----	9037
sauerkraut-----	9133	Producers Creamery Co. of Kirks-	
Minden Creamery:		ville:	
butter-----	9062	butter-----	9065

	N. J. No.		N. J. No.
Producers Dairy Marketing Assoc.:		Supreme Bakery. <i>See</i> Vasiliou, Ernest.	
butter-----	9066	Sure-Rise Baking Powder Co.	
Professional Foods:		<i>See</i> Dean, W. G.	
Di-Ettes-----	9200	Swayne, J. B., & Son:	
Quaker City Coffee Mills:		canned mushrooms-----	9117
celery seed-----	9167	Swift & Co.:	
Rex Vitamin Corp.:		frozen eggs-----	9081
multiple vitamin capsules-----	9190	Table Products Co.:	
Reynolds Bros.:		tomato juice-----	9138
frozen cherries-----	9100	Taylor & Sledd, Inc.:	
Rivers, J. C. <i>See</i> Dean, W. G.		canned turnip greens-----	9135
Roberts, C. F.:		Temkin, L. I.:	
candy-----	9042	black pepper, ground cinnamon, and imitation lemon flavor-----	9162
Rosebud Creamery Co.:		Tiffany Extract Co. <i>See</i> Levy, Charles.	
butter-----	9069	Toledo Candy Co.:	
Roseman, Jacob:		cocoa butter-----	9173
cake-----	9012	Tomaiuoli, Frank & Louis:	
Rosenblum, J., & Son:		edible oils-----	9155
butter-----	9076	Torresin, J. B.:	
S & H Products Co.:		rennet-----	9171
candied popcorn-----	9039	Torsch Canning Co.:	
St. Marys Mill Co.:		canned peas-----	9120
enriched phosphated flour and enriched self-rising flour---	9027	Tower Candy Co.:	
Scarlata Olive Oil Co.:		candy-----	9049
olive oil-----	9160	Towner Creamery:	
Schneider & Lutz:		butter-----	9074
corn meal-----	9018	Townsend & Co.:	
Schneider, W. B., Pickle & Vinegar Co.:		corn meal-----	9019
canned sweet peppers-----	9127	Transpac Products Co.:	
Seacoast Fish Co.:		marshmallow topping-----	9058
frozen eelpout fillets-----	9084	Tri-Western Products Corp.:	
Sessions Co., Inc.:		pancake sirup-----	9057
peanut butter-----	9147	Tuttle, R. M., Popcorn Co.:	
Shapiro, Bob & Morris:		popcorn-----	9036
tullibeas-----	9092	Twin Ports Wholesale Grocery Co.:	
Shapiro Fisheries, Not Inc. <i>See</i> Shapiro, Bob & Morris.		rolled oats-----	9034
Smith Frozen Foods:		Uddo & Taormina Co.:	
canned peas-----	9124	tomato sauce-----	<sup>3</sup> 9139
Snelling, James:		Union Fillet Co.:	
mung beans-----	<sup>1</sup> 9114	frozen eelpout fillets-----	9084
Sound Fruit Growers Assoc.:		Union Pacific Railroad Agent:	
frozen cherries-----	9099	dried eggs-----	9077
Southgate Brokerage Co., Inc.:		Vandegrift, F. B., Co.:	
salt cut herring-----	9088	Jordan almonds-----	9144
Southgate Foods:		Van de Kamp:	
peanut butter-----	9146	frozen cherries-----	9100
Spiers, D. B.:		Vasiliou, Ernest:	
corn meal-----	9016	pecan rolls-----	9011
Standard Butter & Egg Co.:		Venice Importing Co.:	
butter-----	9075	edible oils-----	9158
Starr Fruit Products Co.:		Vita Health Food Co.:	
canned pears-----	9108	Ritamine Capsules-----	9189
Stern, Fred:		Waldo Canning Co.:	
candy-----	9043	canned peas-----	9122
Sunshine Edible Oil Co., Inc.:			
edible oils-----	9157		

<sup>1</sup> (9114, 9118) Seizure contested.<sup>3</sup> (9139) Seizure contested. Contains opinion of the court.



	N. J. No.		N. J. No.
Walker, Myron L., Co., Inc.:		Wich, R.:	
Vitiliver Capsules-----	9185	fresh herring-----	9087
Walton, Hunter, & Co. <i>See</i> Hunter Walton & Co.		Wilfong Bros.:	
Webster, G. L., Co., Inc.:		frozen whiting-----	9094
canned turnip greens-----	9135	Willmeng, J. L., & Son:	
Westergaard, B., & Co.:		apples-----	9096
herring tidbits-----	9089	Winchester Milling Corp.:	
Western Food Corp.:		plain flour, self-rising flour,	
edible oil-----	9156	and corn meal-----	9020
		Zy-Vo Corp.:	
		flour-----	9023

### ERRATA

**F. N. J. No. 8473.** After **PRODUCT** delete lines 4 and 5 beginning with the word "Violations:" and substitute the following:

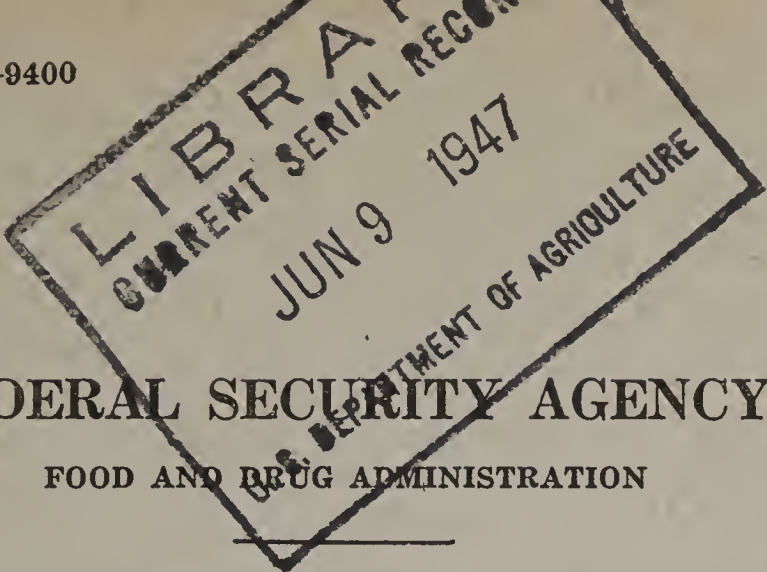
"rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent hairs and moldy peanuts."

**F. N. J. No. 8502.** Under **CONCLUSIONS OF LAW**, paragraph 2, line 2, delete the line beginning "ceed 500 parts per million" and substitute the following: "product was ordered released under bond to be brought into compliance with"









FEDERAL SECURITY AGENCY  
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,  
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

9201-9400

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *December 16, 1946.*

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BEVERAGES AND BEVERAGE MATERIALS\*

9201. Adulteration of coffee sweepings. U. S. v. 118 Bags of Coffee Sweepings.  
Default decree of condemnation and destruction. (F. D. C. No. 18693.  
Sample No. 5797-H.)

LIBEL FILED: December 20, 1945, Eastern District of New York.

ALLEGED SHIPMENT: On or about August 26, 1945, from Santos, Brazil. The name of the shipper is unknown.

PRODUCT: 118 bags, each containing approximately 135 pounds, of coffee sweepings at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirt, pieces of wood, and stones.

DISPOSITION: February 21, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

\*See also Nos. 9367, 9368.



**9202. Adulteration of orange concentrate. U. S. v. 12 Barrels of Orange Concentrate (and 59 other seizure actions against orange concentrate). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17499, 17500, 17598, 17633, 17639, 17657, 17658, 17660, 17674, 17718, 17894 to 17898, incl., 17900 to 17902, incl., 17904 to 17909, incl., 17915 to 17921, incl., 17926, 17928 to 17934, incl., 17945, 17947, 17959, 17970 to 17973, incl., 18146, 18147, 18149 to 18154, incl., 18168 to 18174, incl. Sample Nos. 135-H to 137-H, incl., 476-H, 478-H, 479-H, 690-H, 691-H, 693-H to 695-H, incl., 699-H, 853-H, 855-H, 856-H, 1412-H, 2195-H, 2933-H, 3239-H, 11743-H, 12430-H, 12483-H, 13500-H, 13696-H, 14215-H, 14640-H, 17926-H, 18287-H, 18288-H, 18416-H, 19085-H, 19501-H to 19503-H, incl., 19607-H, 19608-H, 21080-H, 21269-H, 21761-H, 21915-H, 22786-H to 22789-H, incl., 24661-H, 24663-H, 24665-H, 24671-H, 26667-H, 34382-H, 34383-H, 35114-H to 35123-H, incl., 36926-H, 37101-H, 43213-H to 43215-H, incl., 43217-H, 43218-H.)

**LIBELS FILED:** Between the approximate dates of September 24 and November 1, 1945, Middle, Northern, and Southern Districts of Georgia, Eastern and Western Districts of Virginia, Northern District of West Virginia, Northern District of Alabama, Northern and Southern Districts of Iowa, Western and Eastern Districts of Missouri, District of Nebraska, Southern District of Ohio, Western District of Washington, District of Oregon, Western District of Wisconsin, District of Minnesota, Eastern District of Michigan, Western District of Tennessee, District of Kansas, District of Massachusetts, District of Maine, Southern District of Florida, and Western and Middle Districts of North Carolina.

**ALLEGED SHIPMENT:** Between the approximate dates of July 2 and September 24, 1945, by the Harrison's Orange Corporation (also under the names Harrison's Juice Rich Products, the Harrison's Orange Products Co., and the Harrison's Orange Products, Inc.), from Chicago, Ill.

**PRODUCT:** 270 barrels containing from 5 to 55 gallons, 15 1-gallon kegs, 21 1-gallon jars, 68 1-gallon jugs, 2 ½-gallon jugs, 3 22-gallon cans, and 4 1-quart bottles, of orange concentrate.

The product was located at Athens, Atlanta, College Park, Rome, Griffin, Metter, Mt. Vernon, and Tifton, Ga.; Tuscaloosa, Birmingham, and Huntsville, Ala.; St. Louis, Poplar Bluff, Sikeston, Charleston, Creve Coeur, and Kansas City, Mo.; Charles City, McGregor, Knoxville, and Des Moines, Iowa; Meridian, Miss.; Hay Springs, Nebr.; Hopewell, Danville, Petersburg, and Marshall, Va.; Reading, Fairfax, Deer Park, and Bridgetown, Ohio; Salem, Oreg.; La Crosse, Wis.; Red Wing and Rochester, Minn.; Detroit, Mich.; Jackson, Tenn.; Arma, Kans.; Wrentham and Lawrence, Mass.; Biddeford, Maine; New Martinsville and Clarksburg, W. Va.; Tampa, Fla.; and Asheville and Mount Airy, N. C.

**LABEL, IN PART:** "Harrison's Orange Hut Orange [or "Day-Ray Orange Flavored Syrup," "Enriched Syrup Orange Flavored Beverage Drink," "Enriched Orange Flavored Syrup," or "Orange Flavored Concentrated Beverage Base"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which was unsafe within the meaning of the law since it was not required in the production of the product and could have been avoided by good manufacturing practice.

**DISPOSITION:** Between October 25, 1945, and February 28, 1946, no claimants having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9203. Adulteration of orange concentrate. U. S. v. 1 Barrel of Orange Concentrate. Default decree of forfeiture and destruction.** (F. D. C. No. 18814. Sample No. 19854-H.)

**LIBEL FILED:** January 8, 1946, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about December 5, 1945, by the Wonder Orange Co., from Chicago, Ill.

**PRODUCT:** 1 5-gallon barrel of orange concentrate at Wausau, Wis. Analysis showed that the product contained approximately 87 parts per million of monochloroacetic acid.

**LABEL, IN PART:** "Wonder Orange Flavored Sirup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which was unsafe within the meaning of the law since it was not required in the production of the food and could have been avoided by good manufacturing practice.

**DISPOSITION:** February 20, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.



## CEREALS AND CEREAL PRODUCTS

## , BAKERY PRODUCTS

**9204. Adulteration of bread. U. S. v. Becker's Bakery, Inc., and Abe Becker. Pleas of guilty. Corporate defendant fined \$1,000; individual defendant sentenced to 10 days' imprisonment. (F. D. C. No. 16505. Sample Nos. 14759-H, 16642-H, 16643-H, 24467-H.)**

**INFORMATION FILED:** September 25, 1945, Northern District of Illinois, against Becker's Bakery, Inc., Chicago, Ill., and Abe Becker, president of the corporation.

**ALLEGED SHIPMENT:** On or about April 25 and May 1, 2, and 9, 1945, from the State of Illinois into the States of Indiana, Michigan, and Louisiana.

**LABEL, IN PART:** "Special Pumpernickel Bread," or "Special Zizel Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, body parts of insects, rodent pellets, rodent hair fragments, hair fragments resembling rodent hairs, cat hair fragments, and hairs resembling cat hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 23, 1946. Pleas of guilty having been entered, the court fined the corporate defendant \$1,000 and sentenced the individual defendant to 10 days' imprisonment.

**9205. Adulteration of bread. U. S. v. Regan Brothers Company and Henry Bentley. Pleas of nolo contendere. Corporate defendant fined \$500; individual defendant fined \$100. (F. D. C. No. 16620. Sample Nos. 19235-H to 19237-H, incl.)**

**INFORMATION FILED:** November 26, 1945, District of North Dakota, against the Regan Brothers Co., a corporation, Fargo, N. Dak., and Henry Bentley, plant superintendent.

**ALLEGED SHIPMENT:** On or about May 22 and 23, 1945, from the State of North Dakota into the State of Minnesota.

**LABEL, IN PART:** "Holsum Bread Honey Wheat [or "Rye," or "Enriched"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, a cat hair fragment, and unidentified hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 29, 1946. The defendants having entered pleas of nolo contendere, the court imposed a fine of \$100 on the individual defendant and a fine of \$500, plus costs, upon the corporate defendant.

**9206. Adulteration of bread. U. S. v. Purity Baking Co. and Roy L. Davis. Pleas of nolo contendere. Judgment of guilty. Corporation fined \$100; individual fined \$50. (F. D. C. No. 19031. Sample Nos. 25603-H, 25604-H.)**

**INFORMATION FILED:** March 29, 1946, Western District of Texas, against the Purity Baking Co., a corporation, El Paso, Tex., and Roy L. Davis, secretary-treasurer and manager.

**LABEL, IN PART:** "Purity's Jumbo [or "Pullman"] Sliced White Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of whole insects, insect parts, rodent hair, human hair, fibrous material, plant tissue, carbonized matter, and a metal fragment; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 19, 1946. The defendants having entered pleas of nolo contendere, the court directed that pleas of not guilty be entered on the record. The case was submitted to the court on the evidence presented by the Government, and the defendants made no defense other than explanations by way of mitigation. The judgment of the court was that the defendants were guilty and that the corporation pay a fine of \$100 and that the individual defendant pay a fine of \$50.



**9207. Adulteration of bread. U. S. v. Royal Baking Co., George Mueller, and Gus Drechsel. Pleas of guilty. Total fines, \$100. (F. D. C. No. 18592. Sample Nos. 25525-H, 25526-H, 25530-H, 25531-H.)**

**INFORMATION FILED:** January 18, 1946, District of Utah, against the Royal Baking Co., a corporation, Salt Lake City, Utah, George Mueller, president, and Gus Drechsel, general manager, of the corporation.

**ALLEGED SHIPMENT:** On or about April 6 and 16, 1945, from the State of Utah into the States of Nevada and Wyoming.

**LABEL, IN PART:** "Royal Cracked Wheat [or "Rye," "Fine White," or "Wheat"] Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect pupae, insect fragments, rodent hair fragments, and hair fragments similar to rodent hair; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 1, 1946. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$50, and George Mueller and Gus Drechsel were each fined \$25.

**9208. Adulteration of bread. U. S. v. M. Kautz Baking Co., and Roy F. Kautz, Sr., and Charles H. Kautz. Pleas of guilty. Fine of \$25 against each defendant. (F. D. C. No. 16623. Sample No. 18265-H.)**

**INFORMATION FILED:** January 9, 1946, Southern District of Iowa, against the M. Kautz Baking Co., a partnership, Muscatine, Iowa, and Roy F. Kautz, Sr., and Charles H. Kautz, partners.

**ALLEGED SHIPMENT:** On or about July 29, 1945, from the State of Iowa into the State of Illinois.

**LABEL, IN PART:** "Kautz's Enriched Holsum Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, mites, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 2, 1946. Pleas of guilty having been entered on behalf of the corporate defendant and by the individual defendants, the court imposed fines of \$25, plus costs, against each defendant.

**9209. Adulteration of bakery products. U. S. v. National Biscuit Co. Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 16579. Sample Nos. 98702-F, 98707-F, 98710-F, 98718-F, 98719-F.)**

**INFORMATION FILED:** December 11, 1945, Western District of Tennessee, against the National Biscuit Co., a corporation, Memphis, Tenn.

**ALLEGED SHIPMENT:** On or about November 25 and 28 and December 4 and 14, 1944, from the State of Tennessee into the State of Arkansas.

**LABEL, IN PART:** "Waffle Cuplets," "Nabisco Devil's Food Squares," "Nabisco Macaroni Twigs," "Sugar Honey Maid Graham Crackers," or "Nabisco Graham Crackers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect larvae, insect fragments, beetles, rodent hairs, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** February 1, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$250 on each of the 4 counts, a total fine of \$1,000.

**9210. Adulteration and misbranding of bakery products. U. S. v. American Lady Bakers. Plea of nolo contendere. Fine, \$450. (F. D. C. No. 19029. Sample Nos. 26470-H, 26475-H, 26577-H, 26655-H to 26657-H, incl.)**

**INFORMATION FILED:** February 26, 1946, District of Colorado, against the American Lady Bakers, a partnership, Denver, Colo.

**ALLEGED SHIPMENT:** On or about April 3, 4, and 8, 1945, from the State of Colorado into the States of Texas, New Mexico, Wyoming, and South Dakota.

**LABEL, IN PART:** "American Lady \* \* \* Pecan Nut Clusters [or "Fine Cakes," or "Cup Cakes"]."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence in and on it of black specks or other matter resembling charred material, caused by the use of unclean baking utensils; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), (portion) the label statement "Pecan Nut Clusters" was false and misleading since it represented and suggested that the nut ingredient of the article consisted entirely of pecans, whereas it consisted essentially of peanuts; and, Section 403 (i) (2), its label failed to bear the common or usual name of one of the ingredients, i. e., peanuts.

**DISPOSITION:** April 9, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$50 on each of the 9 counts.

**9211. Adulteration of cake. U. S. v. Purity Bakeries Corporation (Grennan Bakeries, Inc.). Plea of guilty. Fine, \$1,000. (F. D. C. No. 16510. Sample Nos. 23011-H to 23013-H, incl.)**

**INFORMATION FILED:** December 11, 1945, Western District of Tennessee, against the Purity Bakeries Corporation, trading as the Grennan Bakeries, Inc., Memphis, Tenn.

**ALLEGED SHIPMENT:** On or about June 12, 1945, from the State of Tennessee, into the State of Arkansas.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, insect fragments, and feather barbules; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 15, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed fines of \$500 on count 1 and \$250 on each of counts 2 and 3, a total fine of \$1,000.

**9212. Adulteration of fruit cake. U. S. v. 386 Cases of Fruit Cake. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as animal feed. (F. D. C. No. 18544. Sample No. 17660-H.)**

**LIBEL FILED:** December 6, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about July 18, 1945, by Charles Zeitz, from Philadelphia, Pa.

**PRODUCT:** 386 cases, each containing 12 1-pound fruit cakes, at Detroit, Mich.

**LABEL, IN PART:** "Pak O Gud Fruit Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

**DISPOSITION:** January 21, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as animal feed.

**9213. Adulteration of fruit cake. U. S. v. 9 Cases of Fruit Cake. Default decree of condemnation and destruction. (F. D. C. No. 18824. Sample No. 13332-H.)**

**LIBEL FILED:** January 8, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 20, 1945, by the Gottfried Baking Co., Inc., from New York, N. Y.

**PRODUCT:** 9 cases, each containing 32 fruit cakes, at Cincinnati, Ohio.

**LABEL, IN PART:** "Gottfried Rum and Brandy Fruit Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold.

**DISPOSITION:** February 27, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9214. Adulteration of fruit cake. U. S. v. 210 Cartons of Fruit Cake. Default decree of condemnation and destruction. (F. D. C. No. 18692. Sample Nos. 8331-H, 8333-H.)**

**LIBEL FILED:** December 20, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 26, 1945, by the Karl Baking Co., Newark, N. J.



**PRODUCT:** 210 cartons, each containing 1 2-pound fruit cake, at Bronx, N. Y.  
The product was insect-infested.

**LABEL, IN PART:** "Dumbarton Oaks Rum & Brandy Fruit Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** February 6, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9215. Adulteration of fruit cakes. U. S. v. 319 Tins of Spiced Fruit Cakes. Default decree of condemnation and destruction. (F. D. C. No. 18747. Sample No. 29993-H.)**

**LIBEL FILED:** January 2, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about August 8, 1945, by the Roll Biscuit Co., from New York, N. Y.

**PRODUCT:** 319 tins, each containing 6 15-ounce fruit cakes, at San Francisco, Calif.

**LABEL, IN PART:** "Spiced Fruit Cakes Lebkuchen."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insects and mold.

**DISPOSITION:** March 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9216. Misbranding of fruit cake. U. S. v. 114 Tins of Fruit Cake. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18616. Sample No. 7995-H.)**

**LIBEL FILED:** December 5, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 26, 1945, by the Berke Cake Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** 114 tins, each containing 1 2-pound fruit cake, at Jersey City, N. J.

**LABEL, IN PART:** "Londonderry Rum & Brandy English Type Fruit Cake \* \* \* Baked in the U. S. A. by Londonderry Bakers, Ltd. \* \* \* Brooklyn 6, N. Y."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "Rum & Brandy English Type Fruit Cake" and "Ingredients \* \* \* Rum and Brandy," were false and misleading since the article contained little, if any, rum or brandy.

**DISPOSITION:** January 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9217. Adulteration of cookies. U. S. v. Arthur P. Suprise (Kay Cookie Co.). Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 16512. Sample Nos. 62835-F to 62837-F, incl., 21853-H, 21854-H, 21856-H, 21857-H.)**

**INFORMATION FILED:** December 11, 1945, Western District of Tennessee, against Arthur P. Suprise, trading as the Kay Cookie Co., Memphis, Tenn.

**ALLEGED SHIPMENT:** On or about January 17, 1944, and May 4, 1945, from the State of Tennessee into the State of Mississippi.

**LABEL, IN PART:** "Kay's Cookies," or "Kay's Vanilla Wafers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, hair fragments resembling rodent hairs, insect fragments, feather fragments, cat and other hairs, and insects; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 13, 1946. The defendant having entered a plea of nolo contendere, the court imposed fines of \$500 on count 1 and \$250 on each of the remaining 2 counts.

**9218. Adulteration of spiced cookies. U. S. v. 89 Cartons of Spiced Cookies. Default decree of forfeiture and destruction. (F. D. C. No. 18583. Sample No. 52615-H.)**

**LIBEL FILED:** December 26, 1945, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about November 15, 1945, by the Runkle Co., from Kenton, Ohio.

**PRODUCT:** 89 17-pound cartons of spiced cookies at Indianapolis, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 20, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9219. Misbranding of cookies. U. S. v. 5 Boxes of Cookies. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 18695. Sample No. 5023-H.)

**LIBEL FILED:** December 26, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 22, 1945, by S. P. Goldstein (Quaker Pretzel Dist.), from Brooklyn, N. Y.

**PRODUCT:** 5 1-pound boxes of cookies at Philadelphia, Pa.

**LABEL, IN PART:** "Rum and Brandy Spice Drops (Pfeffermuss) \* \* \* Baked for Atlas Bakeries, Inc. Brooklyn, N. Y. \* \* \* Ingredients: \* \* \* Pure and Artificial Rum and Brandy Flavors."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Rum and Brandy Spice Drops" was false and misleading since the cookies contained artificial rum and brandy flavor; Section 403 (e), an accurate statement of the quantity of the contents and the common or usual name of each ingredient of the article were not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since they appeared on the end flap of the box; and, Section 403 (k), the product contained artificial coloring and failed to bear labeling stating that fact.

**DISPOSITION:** January 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9220. Adulteration of soda crackers. U. S. v. 99 Cartons of Soda Crackers. Default decree of condemnation and destruction.** (F. D. C. No. 18876. Sample No. 43908-H.)

**LIBEL FILED:** January 28, 1946. Southern District of California.

**ALLEGED SHIPMENT:** On or about October 22, 1945, by the General Chemical Co., from Phoenix, Ariz. This was a return shipment.

**PRODUCT:** 99 6-pound cartons of soda crackers at Los Angeles, Calif. Examination showed that the cartons had been damaged by crushing and that the product was contaminated with dirt.

**LABEL, IN PART:** "Pacific Cracker Co. Los Angeles, California Red Arrow Salted Wafers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** February 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9221. Adulteration of pies. U. S. v. Pappas Pie and Baking Co. and John P. Pappas. Pleas of nolo contendere. Fines of \$500 against each defendant.** (F. D. C. No. 16513. Sample Nos. 22157-H to 22160-H, incl.)

**INFORMATION FILED:** September 25, 1945, Eastern District of Missouri, against the Pappas Pie and Baking Co., a corporation, St. Louis, Mo., and John P. Pappas, president of the corporation.

**ALLEGED SHIPMENT:** On or about May 12, 1945, from the State of Missouri into the State of Illinois.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 25, 1946. Pleas of nolo contendere having been entered on behalf of the corporation and the individual defendants, the court imposed fines of \$500 against each, a total fine of \$1,000.



## CORN MEAL\*

**9222. Adulteration of corn meal. U. S. v. 1,160 Bags and 60 Bags of Corn Meal. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 18810, 18811. Sample Nos. 25213-H, 25214-H.)**

**LIBELS FILED:** January 7, 1946, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about December 4, 1945, by the Meridian Grain and Elevator Co., from Meridian, Miss.

**PRODUCT:** 1,160 5-pound bags and 60 5-pound bags of corn meal at Bogalusa and Covington, La. Examination showed that the product contained rodent pellet fragments, rodent hairs, and insect fragments.

**LABEL, IN PART:** "Top Quality Meal Home Ground," or "Degerminated White Corn Meal Enriched Matchless Bolted Cream Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** On February 15, 1946, no claimant having appeared for the Covington lot, judgment of condemnation was entered and the product was ordered destroyed. On February 26, 1946, the Meridian Grain and Elevator Co., claimant for the Bogalusa lot, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**9223. Adulteration of corn meal. U. S. v. 37 Bags of Corn Meal. Default decree of condemnation. Product ordered disposed of as hog feed. (F. D. C. No. 18995. Sample No. 12703-H.)**

**LIBEL FILED:** January 21, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about December 14, 1945, by the Charles A. Krause Milling Co., from Milwaukee, Wis.

**PRODUCT:** 37 100-pound bags of corn meal at New Bedford, Mass.

**LABEL, IN PART:** "Our Best Southern Plantation Yellow Granulated Corn Meal Milled by Anchor Milling Co. Rochester, Ind."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect webbing.

**DISPOSITION:** March 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered denatured and disposed of for purposes other than human consumption.

**9224. Adulteration of corn meal. U. S. v. 400 Bags of White Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18880. Sample No. 9822-H.)**

**LIBEL FILED:** January 18, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about November 15, 1945, from Beardstown, Ill.

**PRODUCT:** 400 100-pound bags of corn meal at Buffalo, N. Y., in the possession of the Buffalo Merchandise Warehouse. The product was stored under insanitary conditions after shipment. Examination showed that it contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 23, 1946. The Gerhard Lang Brewery, Buffalo, N. Y., claimant, having consented to the entry of a decree, judgment was entered condemning all contaminated portions. It was ordered that the uncontaminated portion be sold for human food and that the contaminated portion be disposed of for animal feed, with the exception of the moldy and heated bags, which were ordered destroyed.

## FLOUR

Nos. 9225 to 9243 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was determined, that fact is stated in the notice of judgment.) The flour reported in

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\*See also No. 9231.

Nos. 9244 and 9245 failed to conform to the definition and standard for enriched flour.

**9225. Adulteration of flour. U. S. v. Fort Morgan Mills, Inc. Plea of nolo contendere. Fine, \$600.** (F. D. C. No. 16516. Sample Nos. 26082-H, 26083-H, 26563-H, 26838-H.)

**INFORMATION FILED:** January 25, 1946, District of Colorado, against the Fort Morgan Mills, Inc., Fort Morgan, Colo.

**ALLEGED SHIPMENT:** On or about March 6 and 20, 1945, from the State of Colorado into the States of New Mexico and Wyoming.

**LABEL, IN PART:** "Morgan Mills \* \* \* Cowboy Flour [or "Red Rose Flour," or "Golden Sunshine Flour"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect and larvae parts, rodent hairs, and hairs resembling rodent hairs; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 25, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$200 on each of the 3 counts.

**9226. Adulteration of flour. U. S. v. 210 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19025. Sample No. 1247-H.)

**LIBEL FILED:** On or about February 11, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 16 and 21, 1945, from Mascoutah, Illinois.

**PRODUCT:** 210 100-pound bags of flour at Atlanta, Ga., in the possession of the Puritan Mills. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets and rodent hairs and that it was contaminated with rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 26, 1946. The Puritan Mills, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the separation of the fit from the unfit portion and the conversion of the unfit portion into stock feed, under the supervision of the Federal Security Agency.

**9227. Adulteration of flour. U. S. v. 59 Bags of Flour. Consent decree of condemnation. Product ordered delivered to a Federal institution, for use as hog feed.** (F. D. C. No. 18631. Sample No. 12098-H.)

**LIBEL FILED:** On or about December 6, 1945, District of Connecticut.

**ALLEGED SHIPMENT:** On or about September 24, 1945, from Buffalo, N. Y.

**PRODUCT:** 59 100-pound bags of flour at East Hartford, Conn., in the possession of the First National Stores, Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, beetles, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 24, 1946. The sole interveners having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as hog feed.

**9228. Adulteration of flour. U. S. v. 560 Bags of Flour. Default decree of condemnation. Product ordered delivered to a charitable institution, for use as animal feed.** (F. D. C. No. 18608. Sample No. 1129-H.)

**LIBEL FILED:** December 3, 1945, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about September 27, 1945, from Dallas, Tex.



**PRODUCT:** 560 100-pound bags of flour at Spartanburg, S. C., in the possession of Becker's Bakery. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, for use as animal feed.

**9229. Adulteration of flour. U. S. v. 280 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18872. Sample No. 58165-H.)**

**LIBEL FILED:** On or about January 17, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about August 28, 1945, from Bozeman, Mont.

**PRODUCT:** 280 50-pound bags of flour at Seattle, Wash., in the possession of the Washington Co-operative Farmers Association. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 30, 1946. The Washington Co-operative Farmers Association, Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

**9230. Adulteration of flour. U. S. v. 131 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18768. Sample No. 36694-H.)**

**LIBEL FILED:** January 9, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about August 10 and September 17, 1945, from Great Falls, Mont.

**PRODUCT:** 131 100-pound bags of flour at Seattle, Wash., in the possession of the Hullin Terminal Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 30, 1946. The Montana Flour Mills Co., Great Falls, Mont., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed under the supervision of the Federal Security Agency.

**9231. Adulteration of flour, corn meal, and barley. U. S. v. 824 Bags and 440 Bundles of Flour, 21 Bags of Corn Meal, and 5 Bags of Barley. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 18619. Sample Nos. 7981-H to 7985-H, incl., 7996-H, 7997-H.)**

**LIBEL FILED:** December 5, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** Between the approximate dates of October 30, 1944, and October 22, 1945, from Buffalo and New York, N. Y., and Kankakee, Ill.

**PRODUCT:** 824 bags (various sizes) of flour, 21 100-pound bags of corn meal, 5 100-pound bags of barley, and 440 bundles, each containing a number of bags (various sizes) of flour at Jersey City, N. J., in the possession of the Hudson Wholesale Grocery Co. These products had been stored under insanitary conditions after shipment. Many of the bags had been gnawed by rodents, and



examination showed that the products contained rodent excreta, rodent hairs, and insects.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** January 7, 1946. The Hudson Wholesale Grocery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond, conditioned that the unfit portions be segregated and denatured for use as animal or poultry feed, under the supervision of the Federal Security Agency.

**9232. Adulteration of plain flour, rye flour, and crushed wheat. U. S. v. 26 Bags of Pastry Flour (and 2 other seizure actions against flour, rye flour, and crushed wheat). Decrees of condemnation. Portion of products ordered delivered to a public institution; remainder ordered released under bond.** (F. D. C. Nos. 18577 to 18579, incl. Sample Nos. 36484-H to 36487-H, incl.)

**LIBEL FILED:** December 18, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about November 7, 1944, from Pendleton, Oreg., and between the approximate dates of April 16 and August 24, 1945, from Minneapolis, Minn., and Billings, Mont.

**PRODUCT:** 31 100-pound bags of crushed wheat, 66 100-pound bags of plain flour, 319 100-pound bags of rye flour, and 26 100-pound bags of pastry flour at Seattle, Wash., in the possession of the American Warehouse. The product had been stored under insanitary conditions after shipment. Some of the bags had been gnawed by rats, and examination showed that a portion of the products contained rodent excreta and larvae, and that the remainder contained beetles and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been stored under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** On April 4, 1946, no claimant having appeared for the pastry flour, judgment of condemnation was entered and the marshal was ordered to destroy the product by delivering it to a Federal prison. The Lucas Flour Co., Seattle, Wash., claimant of the rye flour, and the Russell-Miller Milling Co., Billings, Mont., claimant of the lot of crushed wheat and plain flour, having consented to the entry of decrees, judgments of condemnation were entered on December 28, 1945, and January 22, 1946, respectively, and the products were ordered released under bond. The fit portion of the rye flour was ordered segregated from the unfit portion, and the crushed wheat and plain flour were ordered converted into stock feed. It was further ordered that the Federal Security Agency supervise the disposition of the released goods.

**9233. Adulteration of plain flour and pastry flour. U. S. v. 308 Bags of Plain Flour and 649 Bags of Pastry Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18968. Sample Nos. 12385-H, 12386-H, 12388-H to 12393-H, incl.)

**LIBEL FILED:** January 11, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** Between the approximate dates of May 14 and October 26, 1945, from Hammond, Ind., Buffalo and East Buffalo, N. Y., Spokane, Wash., and Louisville, Ky.

**PRODUCT:** 308 100-pound bags of plain flour and 649 100-pound bags of pastry flour at New Bedford, Mass., in the possession of the General Mills, Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, rodent hairs, and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 4, 1946. The General Mills, Inc., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that



it be denatured with fish oil and converted into stock feed, under the supervision of the Federal Security Agency.

**9234. Adulteration of plain flour, self-rising flour, and phosphated flour. U. S. v. 92 Bags of Plain Flour, 662 Bags of Self-Rising Flour, and 231 Bags of Phosphated Flour (and 1 other seizure action against flour). Consent decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 18991, 19003. Sample Nos. 1616-H to 1620-H, incl., 1704-H to 1707-H, incl.)**

**LIBELS FILED:** January 22 and 24, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of October 1 and December 19, 1945, from Topeka and Arkansas City, Kans., and Yukon, Okla.

**PRODUCT:** 71 50-pound bags and 21 25-pound bags of plain flour; 300 25-pound bags, 1,090 10-pound bags, and 482 50-pound bags of self-rising flour; and 175 50-pound bags, 312 10-pound bags, and 231 25-pound bags of phosphated flour at Cedartown, Ga., in the possession of the Ober Wholesale Co. These products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the products contained urine.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the articles consisted in whole or in part of filthy substances; and, Section 402(a)(4), they had been stored under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** February 12, 1946. The Ober Wholesale Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for the separation of the fit from the unfit portions and the conversion of the unfit portion into stock feed, under the supervision of the Federal Security Agency.

**9235. Adulteration of cake flour. U. S. v. 97 Bags of Cake Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19019. Sample No. 885-H.)**

**LIBEL FILED:** January 30, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about December 10, 1945, from Johnson, Tennessee.

**PRODUCT:** 97 100-pound bags of cake flour at Atlanta, Ga., in the possession of the Turner Manufacturing Co. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination showed that the product contained urine.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a filthy substance; and, Section 402(a)(4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 28, 1946. The Turner Manufacturing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

**9236. Adulteration of self-rising corn flour, self-rising buckwheat flour, and wheat meal. U. S. v. The Great Valley Mills. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 18597. Sample Nos. 3067-H, 6071-H, 7783-H.)**

**INFORMATION FILED:** March 5, 1946, Eastern District of Pennsylvania, against the Great Valley Mills, a corporation, Paoli, Pa.

**ALLEGED SHIPMENT:** On or about April 14 and 19 and July 3, 1945, from the State of Pennsylvania into the States of New York and New Jersey and the District of Columbia.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the products consisted in whole or in part of filthy substances by reason of the presence of whole insects, insect fragments, insect larvæ, and rodent hair fragments; and, Section 402(a)(4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** April 10, 1946. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$100 was imposed.

**9237. Adulteration of durum flour. U. S. v. 50 Bags of Durum Flour. Default decree of condemnation and destruction. (F. D. C. No. 18856. Sample No. 59708-H.)**

**LIBEL FILED:** January 15, 1946, Western District of Pennsylvania.



**ALLEGED SHIPMENT:** On or about December 3, 1945, from Minneapolis, Minn.

**PRODUCT:** 50 100-pound bags of durum flour at Connellsville, Pa., in the possession of La Premiata Macaroni Corporation. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent hair fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 6, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9238. Adulteration of pancake flour. U. S. v. 64 Sacks of Pancake Flour. Default decree of condemnation and destruction.** (F. D. C. No. 19048. Sample No. 9828-H.)

**LIBEL FILED:** January 31, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about July 18, 1945, from Springfield, Ill.

**PRODUCT:** 64 sacks, each containing 10 5-pound bags, of pancake flour at Buffalo, N. Y., in the possession of the Buffalo Merchandise Warehouse. The article was stored under insanitary conditions after shipment. Many bags were rodent-gnawed, and urine stains were observed on them. Examination showed that the product contained mold.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. It was denatured and utilized as stock feed.

**9239. Adulteration of pancake flour. U. S. v. 9 Cases of Pancake Flour. Default decree of condemnation and destruction.** (F. D. C. No. 18840. Sample No. 50646-H.)

**LIBEL FILED:** January 10, 1946, District of North Dakota.

**ALLEGED SHIPMENT:** On or about November 30, 1945, by Griggs, Cooper and Co. from St. Paul, Minn.

**PRODUCT:** 9 cases, each containing 12 3½-pound packages, of pancake flour at Fargo, N. Dak. The product contained rodent hairs and insect fragments.

**LABEL, IN PART:** "Home Brand Self Rising Pancake Four."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** April 22, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9240. Adulteration of pastry flour. U. S. v. 64 Bags of Pastry Flour. Default decree of condemnation and destruction.** (F. D. C. No. 18982. Sample No. 8135-H.)

**LIBEL FILED:** January 15, 1946, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about October 18, 1945, from Springfield, Ohio.

**PRODUCT:** 64 100-pound bags of pastry flour at Brooklyn, N. Y., in the possession of the Fashion Bakers. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9241. Adulteration of rice flour. U. S. v. 499 Bags of Rice Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18754. Sample No. 37836-H.)

**LIBEL FILED:** On or about January 5, 1946, District of Oregon.



**ALLEGED SHIPMENT:** On or about July 17, 1945, by Balfour, Guthrie and Co., Ltd., from Sacramento, Calif.

**PRODUCT:** 499 100-pound bags of rice flour at Portland, Oreg.

**LABEL, IN PART:** "Farmers' Rice Growers Co-Op. Sacramento California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 18, 1946. The Crown Mills, Portland, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reprocessed under the supervision of the Food and Drug Administration. The product was to be denatured for use as animal feed.

**9242. Adulteration of rye flour and plain flour. U. S. v. 9 Bags of Rye Flour and 17 Bags of Plain Flour. Default decree of forfeiture and destruction. (F. D. C. No. 18625. Sample Nos. 960-H, 961-H.)**

**LIBEL FILED:** December 6, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about October 5, 1945, by the Russell-Miller Milling Co., from Alton, Ill.

**PRODUCT:** 9 100-pound bags of rye flour and 17 100-pound bags of plain flour at Miami, Fla.

**LABEL, IN PART:** "Pure White Rye Flour," or "Special Powerful Blending Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, and cast skins.

**DISPOSITION:** January 14, 1946. No claimant having appeared, judgment of forfeiture was entered and the products were ordered destroyed.

**9243. Adulteration of self-rising flour and plain flour. U. S. v. 348 Bags of Self-Rising Flour (and 1 other seizure action against self-rising flour and plain flour). Default decrees of condemnation. Products ordered delivered to a Federal institution for use as animal feed. (F. D. C. Nos. 18648, 18649. Sample Nos. 1608-H to 1612-H, incl.)**

**LIBELS FILED:** On or about January 4, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of June 4 and September 25, 1945, from Springfield, Mo., and Memphis, Tenn.

**PRODUCT:** 26 50-pound bags, 752 10-pound bags, and 95 25-pound bags of self-rising flour, and 334 25-pound bags of plain flour at Rome, Ga., in the possession of the Simpson Grocery Co. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and urine stains were observed on them. Examination showed that the products had been contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 4, 1946. No claimant having appeared, judgments of condemnation were entered, and the products were ordered delivered to a Federal institution, for use as animal feed.

**9244. Adulteration and misbranding of enriched plain flour and enriched self-rising flour. U. S. v. Texas Star Flour Mills. Plea of guilty. Fine, \$100. (F. D. C. No. 16548. Sample Nos. 9686-F, 62033-F.)**

**INFORMATION FILED:** October 30, 1945, Northern District of Texas, against the Texas Star Flour Mills, a corporation, Dallas, Tex.

**ALLEGED SHIPMENT:** On or about September 12 and November 1, 1944, from the State of Texas into the State of Louisiana.

**PRODUCT:** Enriched plain flour and enriched self-rising flour.

**LABEL, IN PART:** "Bleached Ambrosia Flour Enriched," or "Self-Rising Southern Delight Enriched Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), (both lots) valuable constituents, thiamine (vitamin B<sub>1</sub>) and iron, in the plain flour, and thiamine

and riboflavin, in the self-rising flour, had been in part omitted from the articles.

Misbranding, Section 403 (a), (plain flour) the label statement "Enriched" was false and misleading since it represented that the article contained the nutritional substances in the amounts prescribed in the standard for enriched flour, whereas it contained less thiamine and iron than prescribed by the standard.

Misbranding, Section 403 (a), (self-rising flour) the label statements, "Enriched \* \* \* 8 Oz. of Enriched self-rising flour contain not less than the following proportions of the minimum daily requirements of Vitamin B<sub>1</sub> 100%, riboflavin 30%," were false and misleading since the article did not contain vitamin B<sub>1</sub> and riboflavin in the amounts required by the standard for enriched flour, since it contained, in 8 ounces, less than 100 percent of the minimum daily requirement for thiamine (vitamin B<sub>1</sub>) and less than 30 percent of the minimum daily requirement for riboflavin.

Further misbranding, Section 403 (g) (1), (both lots) the articles failed to conform to the definition and standard of identity prescribed by the regulations for enriched flour.

**DISPOSITION:** March 27, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

**9245. Adulteration and misbranding of enriched phosphated flour. U. S. v. 1,500 Bags of Enriched Phosphated Flour. Default decree of condemnation. Product ordered delivered to a State institution. (F. D. C. No. 18817. Sample No. 35043-H.)**

**LIBEL FILED:** January 8, 1946, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about December 7, 1945, by the Larabee Flour Mills Co., from Clinton, Mo.

**PRODUCT:** 1,500 bags, each containing 2 pounds, of enriched phosphated flour at Little Rock, Ark. Examination of a sample of the product showed that it contained less than 1.60 milligrams of vitamin B<sub>1</sub> and less than 11.7 milligrams of iron per pound.

**LABEL, IN PART:** "Larabee's 2 Lbs. Airy Fairy Flour Soft Wheat Patent Flour Enriched Phosphated Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B<sub>1</sub>) and iron, had been omitted.

Misbranding, Section 403 (g) (1), the article failed to conform to the standard for enriched flour since the standard requires that each pound of enriched flour shall contain not less than 2.0 milligrams of thiamine and not less than 13.0 milligrams of iron.

**DISPOSITION:** February 27, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a State institution.

#### MACARONI AND NOODLE PRODUCTS

**9246. Adulteration and misbranding of macaroni and noodle products. U. S. v. Miller Food Products Co. and Jacob Miller and Rose Miller. Pleas of guilty. Fines of \$100 on count 1 and \$1 on each of counts 2, 3, 4, and 5, against the defendant company; imposition of sentence against the individual defendants suspended for 2 years. (F. D. C. No. 18590. Sample Nos. 31082-H, 32353-H, 32412-H, 32436-H.)**

**INFORMATION FILED:** February 1, 1946, Southern District of California, against the Miller Food Products Co., a partnership, Los Angeles, Calif., and Jacob Miller and Rose Miller, partners.

**ALLEGED SHIPMENT:** Between the approximate dates of May 5 and June 30, 1945, from the State of California into the State of Arizona.

**LABEL, IN PART:** "Millers Macaroni," "Medium Noodles," or "Millers Egg Noodles."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (g) (1), the egg noodles failed to conform to the definition and standard of identity prescribed by the regulations since their total solids contained less than 5.5 percent by weight of the solids of egg or



egg yolk, the minimum permitted by the standard, and they contained carotene, which is not an optional ingredient of egg noodles.

**DISPOSITION:** March 18, 1946. Pleas of guilty having been entered, the partnership defendant was sentenced to pay fines of \$100 on count 1 and \$1 on each of counts 2, 3, 4, and 5. Imposition of sentence against the individual defendants was suspended for a period of 2 years, conditioned that they do not violate any laws of the United States during that period.

**9247. Adulteration of macaroni products. U. S. v. Anthony Bizzari. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 16622. Sample Nos. 31987-H, 32402-H.)**

**INFORMATION FILED:** January 4, 1946, Southern District of California, against Anthony Bizzari, Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about March 13 and May 8, 1945, from the State of California into the State of Arizona.

**LABEL, IN PART:** "La Paloma Brand Superfine Semolina \* \* \* Macaroni."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, and cat hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 11, 1946. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$150 on each count, a total fine of \$300.

**9248. Adulteration of macaroni products. U. S. v. Alfred L. Spadafora and Emil Spadafora. Pleas of nolo contendere. Fine, \$150 against each defendant. (F. D. C. No. 16608. Sample Nos. 31074-H, 31822-H.)**

**INFORMATION FILED:** November 26, 1945, Southern District of California, against Alfred L. Spadafora and Emil Spadafora, partners, Los Angeles, Calif.

**ALLEGED SHIPMENT:** March 21 and April 30, 1945, from the State of California into the State of Arizona.

**LABEL, IN PART:** "Superio Macaroni and Cheese Dinner," or "Superio Italian Spaghetti Dinner with Tasty Mushroom Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hairs; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** February 11, 1946. The defendants having entered pleas of nolo contendere, the court imposed a fine of \$150 against each defendant.

**9249. Adulteration of macaroni and noodle products. U. S. v. 195 Cartons and 116 Cases of Spaghetti, 99 Cartons of Elbows, 15 Cartons of Egg Noodles, and 230 Cartons of Alphabets, Shells, and Assorted Macaroni (and 2 other seizure actions against macaroni products). Default decrees of condemnation and destruction. (F. D. C. Nos. 18561, 18731, 18924. Sample Nos. 9659-H, 9660-H, 9662-H to 9665-H, incl., 10391-H to 10393-H, incl., 56086-H to 56088-H, incl.)**

**LIBELS FILED:** December 13 and 20, 1945, and January 30, 1946, Western District of New York and Northern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of August 20 and December 19, 1945, by the LaPremiata Macaroni Corporation, from Connellsville, Pa.

**PRODUCT:** 195 cartons, 116 cases, and 20 cases of spaghetti; 99 cartons of elbows; 31 cartons and 7 cases of egg noodles; 230 cartons of alphabets, shells, and assorted macaroni; and 13 cases of spaghettini, in various quantities at Alliance and Youngstown, Ohio, and Buffalo, N. Y.

**LABEL, IN PART:** "LaPremiata \* \* \* Egg Noodles," [or "Spaghetti," "Spaghettini Fini," "Elbows," "Egg Noodle Product," or "Egg Specialities"].

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of one or more of the following: Insect fragments, rodent hairs, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** January 7 and 18 and February 27, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.



## MISCELLANEOUS CEREAL PRODUCTS\*

**9250. Adulteration of brewer's grits. U. S. v. 600 Bags and 597 Bags of Brewer's Grits. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18891, 18892. Sample Nos. 36977-H, 36978-H.)

**LIBELS FILED:** January 25, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about November 29 and December 12, 1945, from Topeka, Kans., and Greenville, Tex.

**PRODUCT:** 1,197 100-pound bags of brewer's grits at Tacoma, Wash., in the possession of the Pacific Storage, Warehouse and Distributing Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on some of them. Examination showed that the product contained rodent excreta and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 12, 1946. The cases having been consolidated, and the Silver Springs Brewing Co., Port Orchard, Wash., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9251. Adulteration of popcorn balls and candied popcorn. U. S. v. Leland M. Dayton (Spencer Popcorn Co.). Plea of guilty. Fine, \$100.** (F. D. C. No. 19041. Sample Nos. 25539-H, 25543-H.)

**INFORMATION FILED:** March 13, 1946, District of Utah, against Leland M. Dayton, trading as the Spencer Popcorn Co., Salt Lake City, Utah.

**ALLEGED SHIPMENT:** On or about May 12 and June 17, 1945, from the State of Utah into the State of Idaho.

**LABEL, IN PART:** (Portion) "Spencer's Crispettes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hair, cat or dog hair, and an insect seta; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 29, 1946. The defendant having entered a plea of guilty, the court imposed a fine of \$50 on each of the 2 counts.

**9252. Adulteration of popcorn. U. S. v. 15 Cases of Popcorn. Default decree of condemnation and destruction.** (F. D. C. No. 18620. Sample No. 8221-H.)

**LIBEL FILED:** On or about December 4, 1945, District of Connecticut.

**ALLEGED SHIPMENT:** On or about October 19, 1945, by Spuds, from Chicago, Ill.

**PRODUCT:** 15 cases, each containing 60 bags, of popcorn at Hamden, Conn. Analysis disclosed that approximately 17 percent of the product consisted of mineral oil, and that approximately 64 percent of the total oil content was mineral oil.

**LABEL, IN PART:** (Bag) "Tasti-est Yet Pop Corn Selected Popcorn, Shortening, Salt Added 2 Oz. Net Weight."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained approximately 17 percent added mineral oil, a deleterious substance which may have rendered the article injurious to health; Section 402 (b) (2), popcorn with mineral oil and salt had been substituted for popcorn with edible fat and salt; and, Section 402 (b) (4), mineral oil had been added to the article and mixed and packed with it so as to increase its bulk or weight, reduce its quality, and make it appear better and of greater value than it was.

**DISPOSITION:** January 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9253. Adulteration of popcorn. U. S. v. 20 Bags and 135 Bags of Popcorn. Default decrees of condemnation and destruction.** (F. D. C. Nos. 18663, 18666. Sample Nos. 1227-H, 1422-H.)

**LIBELS FILED:** January 2, 1946, Northern District of Georgia.

\*See also Nos. 9231, 9232, 9236.



**ALLEGED SHIPMENT:** On or about May 17 and September 5, 1945, from Lees Summit, Mo., and Van Buren, Ind.

**PRODUCT:** 155 100-pound bags of popcorn at Atlanta, Ga., in the possession of the Southeastern Bonded Warehouses. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets, rodent hairs, and larvae, and that a portion was contaminated with rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 22, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9254. Adulteration of popcorn. U. S. v. 18 Bags of Popcorn. Default decree ordering product destroyed or disposed of as animal feed. (F. D. C. No. 18837. Sample No. 51016-H.)**

**LIBEL FILED:** January 10, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 25 and 27, 1945, from Schaller, Iowa.

**PRODUCT:** 18 100-pound bags of popcorn at St. Paul, Minn., in the possession of Red Dot Foods. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination disclosed that the product contained rodent excreta and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 5, 1946. No claimant having appeared, judgment was entered ordering that the product be destroyed unless converted into stock feed, and disposed of as such, under the supervision of the Food and Drug Administration.

**9255. Adulteration of popcorn. U. S. v. 298 Cases of Popcorn. Default decree of forfeiture and destruction. (F. D. C. No. 18775. Sample No. 37948-H.)**

**LIBEL FILED:** January 3, 1946, District of Idaho.

**ALLEGED SHIPMENT:** On or about May 21, 1945, by the Vee Bee Co., Chicago, Ill.

**PRODUCT:** 298 cases, each containing 36 8-ounce packages, of popcorn at Lewiston, Idaho.

**LABEL, IN PART:** "V-Bee Fine Popping Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, larvae, insect parts, and webbing.

**DISPOSITION:** February 6, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9256. Adulteration of popcorn. U. S. v. 22 Cases of Popcorn. Default decree of condemnation and destruction. (F. D. C. No. 19068. Sample No. 13799-H.)**

**LIBEL FILED:** On or about February 5, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 23, 1945, by Plettman's, from Port Arthur, Tex.

**PRODUCT:** 22 cases, each containing 32 cans, of popcorn at Cleveland, Ohio.

**LABEL IN PART:** (Can) "Royale Brand Popcorn Net Weight 12 Oz. When Packed."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, and rodent hairs.

**DISPOSITION:** March 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9257. Adulteration of popcorn. U. S. v. 10 Cartons of Pop-Corn. Default decree of condemnation and destruction. (F. D. C. No. 18617. Sample No. 1607-H.)**

**LIBEL FILED:** On or about December 24, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about January 30, 1945, by the Gertz Distributing Co., from Chicago, Ill.

**PRODUCT:** 10 cartons, each containing 48 8-ounce cans, of popcorn at Rome, Ga.

**LABEL, IN PART:** (Can) "Judmar's Pop-Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and rodent excreta.

**DISPOSITION:** January 9, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9258. Adulteration of popover mix. U. S. v. 10 Cartons of Popover Mix. Default decree of condemnation and destruction.** (F. D. C. No. 18611. Sample No. 1606-H.)

**LIBEL FILED:** On or about December 24, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about August 13, 1945, by the Cramer Products Co., from New York, N. Y.

**PRODUCT:** 10 cartons, each containing 24 boxes, of popover mix at Rome, Ga.

**LABEL, IN PART:** (Box) "Joy Popover Mix Net Wt. 10 Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** January 9, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9259. Adulteration of wheat cereal. U. S. v. Nebraska Consolidated Mills Co. Plea of nolo contendere. Fine, \$150 and costs.** (F. D. C. No. 17805. Sample Nos. 18548-H, 18704-H, 18707-H.)

**INFORMATION FILED:** February 25, 1946, District of Nebraska, against the Nebraska Consolidated Mills Co., a corporation, Omaha, Nebr.

**ALLEGED SHIPMENT:** On or about January 30 and February 1 and 8, 1945, from the State of Nebraska into the States of Minnesota and Iowa.

**LABEL, IN PART:** "Dixianna Wheat Cereal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hairs, insects, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 25, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$50, plus costs, on each of the 3 counts.

## CHOCOLATE, SUGARS, AND RELATED PRODUCTS

### CANDY\*

**9260. Adulteration of candy. U. S. v. Angelo Cataldo (Liberty Chocolate Co.) and Carl Rapucci. Plea of guilty by Angelo Cataldo; fine, \$250. Plea of nolo contendere by Carl Rapucci; fine, \$25.** (F. D. C. No. 16569. Sample Nos. 88674-F, 88801-F, 88809-F.)

**LIBEL FILED:** October 15, 1945, District of Massachusetts, against Angelo Cataldo, trading as the Liberty Chocolate Co., and Carl Rapucci, manager.

**ALLEGED SHIPMENT:** On or about November 22 and 29, 1944, from the State of Massachusetts into the States of Vermont and New Hampshire.

**LABEL, IN PART:** "Sue Perkins Assorted Chocolates \* \* \* Mfd. by Sue Perkins Chocolate Co. Boston, Mass.," or "Ruth Hawthorne Candies \* \* \* Mfd. For Ruth Hawthorne Candies Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 3, 1946. Angelo Cataldo having entered a plea of guilty, and Carl Rapucci having entered a plea of nolo contendere, fines of \$250 and \$25, respectively, were imposed.

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\*See also Nos. 9251, 9375, 9380, 9381.



**9261. Adulteration of candy. U. S. v. J. Ralph Kirkley, Inc., and Simon I. Leon. Pleas of nolo contendere. Fine of \$250 against each defendant. (F. D. C. No. 16619. Sample Nos. 6975-H, 6976-H, 14513-H, 14514-H.)**

**INFORMATION FILED:** January 29, 1946, Eastern District of Pennsylvania, against J. Ralph Kirkley, Inc., a corporation, Philadelphia, Pa., and Simon I. Leon, president of the corporation.

**ALLEGED SHIPMENT:** On or about March 23 and April 10, 1945, from the State of Pennsylvania into the States of New Jersey and Ohio.

**LABEL, IN PART:** "Kirkley's Kool Kandies [or "Chocolate Kernel Bars"]," or "The Floral Box \* \* \* Kirkley's Chocolates."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of cat hair fragments, rodent or cat hair fragments, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 13, 1946. The defendants having entered pleas of nolo contendere, the court imposed a fine of \$250 against each defendant.

**9262. Adulteration of candy. U. S. v. Brook Britton Simms, Jr. (Simms Candy Co. and Simms Tobacco & Candy Co.). Plea of nolo contendere. Fine, \$150. (F. D. C. No. 16521. Sample Nos. 61859-F, 61860-F, 66598-F.)**

**INFORMATION FILED:** August 13, 1945, Eastern District of Texas, against Brook Britton Simms, Jr., an individual trading as the Simms Candy Co. and the Simms Tobacco & Candy Co., Denison, Tex.

**ALLEGED SHIPMENT:** Between the approximate dates of June 1 and December 2, 1944, from the State of Texas into the State of Oklahoma.

**LABEL, IN PART:** "5¢ Patties," "Peanut Patties," "Simms' Fudge Bar," "Simms' Brittle Bar," or "5¢ Brittle P'nut Bars."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of one or more of the following: Rodent-gnawed patties, rat or mouse hairs, a fly leg, insect setae, cat hairs, a metal shaving, an insect chitin fragment, larvae, and larvae cast skins, an adult insect, and a bristle; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 2, 1946. A plea of nolo contendere having been entered, the defendant was fined \$150.

**9263. Adulteration of candy. U. S. v. Brock Candy Co. Plea of nolo contendere. Fine, \$2,000. (F. D. C. No. 18607. Sample Nos. 13427-H, 23621-H, 23858-H to 23860-H, incl.)**

**INFORMATION FILED:** February 19, 1946, Eastern District of Tennessee, against the Brock Candy Co., a corporation, Chattanooga, Tenn.

**ALLEGED SHIPMENT:** On or about June 18 and 19, 1945, from the State of Tennessee into the States of Ohio and Texas.

**LABEL, IN PART:** "Century Crisp Peanut Butter Filled Candy," "Crystal Jelly Drops," or "Seald Sweetest Assorted Jelly Drops."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hairs, rodent hair fragments, rodent excreta fragments, wood fragments, pieces of wood fibers, a feather fragment, miscellaneous dirt, and live beetles; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 28, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$400 on each of the 5 counts of the information.

**9264. Adulteration of candy. U. S. v. Southern Trading Co. Plea of guilty. Fine, \$750. (F. D. C. No. 17794. Sample Nos. 64098-F, 610-H.)**

**INFORMATION FILED:** February 4, 1946, Middle District of Georgia, against the Southern Trading Co., a partnership, Columbus, Ga.

**ALLEGED SHIPMENT:** On or about December 12, 1944, and January 17, 1945, from the State of Georgia into the State of Alabama.

**LABEL, IN PART:** "Cream Candy," or "Peanut Brittle."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, and whole insects; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 7, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$750.

**9265. Adulteration of candy. U. S. v. Hedison Bros. Confectionery Co. Plea of guilty. Fine, \$250.** (F. D. C. No. 16570. Sample Nos. 11430-H, 11432-H, 11433-H, 11713-H.)

**INFORMATION FILED:** January 30, 1946, District of Massachusetts, against the Hedison Bros. Confectionery Co., a partnership, Boston, Mass.

**ALLEGED SHIPMENT:** January 10 and February 17, 1945, from the State of Massachusetts into the States of Rhode Island and New Hampshire.

**LABEL, IN PART:** "Peanut Brittle," "Chocolate Covered Nut and Fruit Victory Mixture," or "Chocolate Victory Mixture."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, rodent hair fragments, and insects; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 20, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$250.

**9266. Adulteration of candy. U. S. v. 66 Cartons and 64 Cases of Candy (and 2 other seizure actions against candy). Default decrees of condemnation and destruction.** (F. D. C. Nos. 18637, 18950, 18964. Sample Nos. 1057-H, 1058-H, 1066-H, 1067-H, 8276-H to 8280-H, incl.)

**LIBELS FILED:** December 12, 1945, and January 8 and 10, 1946, District of Connecticut and Western District of North Carolina.

**ALLEGED SHIPMENT:** Between the approximate dates of August 21 and September 7, 1945, by the Jay-Dee Candy Co., from Dallas, Tex.

**PRODUCT:** 113 boxes and 178 boxes of candy at Bryson City, N. C., and Hendersonville, N. C., respectively; and 66 cartons, and 6 cases, each case containing 24 cartons, of the same product at New Haven, Conn. Each box and carton contained 16 candy bars.

**LABEL, IN PART:** "Caramel-Nut Candy," "Jay-Dee's Fruit Delight Bar," "Pecan Brittle," "Pecan Delight Bar," "Dallas Cream and Nut Bar," "Zat-Zit Caramel Bar," "Cap'n Billy Spanish Nougat Bar," or "A Sweet Surprise Carmel-Nut Candy."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and (North Carolina lot) larvae; and (North Carolina lot only), Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 16 and February 4, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9267. Adulteration of candy. U. S. v. 119 cases of Candy (and 3 other seizure actions against candy). Default decrees of condemnation and destruction.** (F. D. C. Nos. 18641, 18644 to 18646, incl. Sample Nos. 3149-H to 3154-H, incl.)

**LIBELS FILED:** December 11, 1945, District of Columbia.

**PRODUCT:** 299 cases of candy at the National Trucking and Storage Co., Inc., Washington, D. C. The product was offered for shipment from Washington, D. C., on the order of Reib Factors, Inc., Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

**DISPOSITION:** February 14, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9268. Adulteration of candy. U. S. v. 90 Boxes of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 18949. Sample No. 1234-H.)

**LIBEL FILED:** January 14, 1946, Eastern District of South Carolina.



**ALLEGED SHIPMENT:** On or about September 18, 1945, by the Big D Candy Co., from Dallas, Tex.

**PRODUCT:** 90 boxes, each containing 16 1-ounce candy bars, at Darlington, S. C.

**LABEL, IN PART:** "Texana Fudge Bar."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, cast skins, and insect excreta.

**DISPOSITION:** February 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9269. Adulteration of candy. U. S. v. 36 Cartons and 30 Boxes of Candy. Default decrees of condemnation and destruction.** (F. D. C. Nos. 18678, 18679. Sample Nos. 13788-H, 13789-H.)

**LIBELS FILED:** December 19, 1945, Northern District of West Virginia.

**ALLEGED SHIPMENT:** On or about November 1 and 3, 1945, by the Peters Icing Flower Co., from Canton, Ohio.

**PRODUCT:** 36 cartons, each containing 6 1-pound boxes, of candy at Weirton, W. Va., and 30 2-pound boxes of the same product at Wellsburg, W. Va.

**LABEL, IN PART:** "Medallion Assorted Chocolate Package," or "Medallion Package Fancy Assorted Chocolates."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 21, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9270. Adulteration of pecan candy. U. S. v. 71 Boxes of Pecan Roll. Default decree of condemnation and destruction.** (F. D. C. No. 18951. Sample No. 1054-H.)

**LIBEL FILED:** January 14, 1946, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about September 22, 1945, by Reibs, from Chicago, Ill.

**PRODUCT:** 71 boxes, each containing 16 1¼-ounce bars, of pecan roll at Greenville, S. C.

**LABEL, IN PART:** "Verifine Pecan Roll \* \* \* Made by Jay-Dee Candy Co. Dallas, Texas."

**NATURE OF CHARGE:** Adulteration, Section 402 (d), the article was confectionery and it contained a nonnutritive substance, pecan shell fragments; and, Section 402 (b) (2), a mixture of pecan candy and pecan shell fragments had been substituted for pecan candy.

**DISPOSITION:** February 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9271. Adulteration of paraffin-wax soda cones and paraffin-wax filled bottles (confections). U. S. v. 20 Boxes of Paraffin-Wax Soda Cones and 29 Boxes of Paraffin-Wax Filled Bottles. Default decree of destruction.** (F. D. C. No. 18543. Sample Nos. 18796-H, 18797-H.)

**LIBEL FILED:** December 6, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 7, 1945, by the Favorite Confection Co., from Eau Claire, Wis.

**PRODUCT:** 49 boxes, each containing 80 paraffin-wax soda cones or paraffin-wax filled bottles, at St. Paul, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 28, 1946. No claimant having appeared, judgment was entered ordering the product destroyed.

**9272. Adulteration and misbranding of candy. U. S. v. 75 Cases of Almond Mibs. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 18716. Sample No. 14258-H.)

**LIBEL FILED:** January 7, 1946, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about November 3, 1945, by C. V. Fowler, from Davenport, Iowa.

**PRODUCT:** 75 30-pound cases of candy at Newport, Ky. The product contained no almonds.

**LABEL, IN PART:** "Almond Mibs \* \* \* Contains:—Sugar, Corn Syrup, Peanut Butter, Malted Kernels, Salt, Oil of Almonds."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, almonds, had been omitted.

Misbranding, Section 403 (a), the name "Almond Mibs" was false and misleading as applied to a product that contained no almonds; and, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient, since "malted kernels" is not the common or usual name of any ingredient.

**DISPOSITION:** February 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9273. Adulteration and misbranding of candy. U. S. v. 24 Cases of Candy. Default decree of forfeiture and destruction. (F. D. C. No. 18839. Sample No. 25303-H.)**

**LIBEL FILED:** On or about January 21, 1946, Western District of Texas.

**ALLEGED SHIPMENT:** On or about September 24, 1945, by the Western Grocery Co., from St. Joseph, Mo.

**PRODUCT:** 24 cases, each containing 24 tins, of candy at Waco, Tex. Examination showed that the product was moldy and short-weight.

**LABEL, IN PART:** "Sergeant Jane Texas Pecan Roll Contents Net Weight 8 Ounces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 19, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9274. Misbranding of nougat candy. U. S. v. 360 Cartons of Nougat Candy. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18701. Sample No. 11677-H.)**

**LIBEL FILED:** December 26, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about October 25, 1945, by C. A. Ferrara, Inc., from New York, N. Y.

**PRODUCT:** 360 10-ounce cartons of nougat candy at Boston, Mass. The product was short-weight.

**LABEL, IN PART:** "Torrone Ferrara Nougat Candy Net Weight 10 Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the article was so filled as to be misleading since the candy occupied an average of only 56 percent of the box; and, Section 403 (e) (2), the label of the article failed to bear an accurate statement of the quantity of the contents.

**DISPOSITION:** March 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**CHOCOLATE AND COCOA PRODUCTS**

**9275. Adulteration of chocolate. U. S. v. 125 Bales of Chocolate. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18767. Sample No. 9816-H.)**

**LIBEL FILED:** December 29, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about October 14, 1944, by the Curtiss Candy Co., from Chicago, Ill.

**PRODUCT:** 125 bales, each containing 20 10-pound slabs, of chocolate at Buffalo, N. Y.

**LABEL, IN PART:** "Special Liquor Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, and rodent hair fragments.

**DISPOSITION:** April 22, 1946. The Happiness Candy Stores, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered



and the product was ordered released under bond, conditioned that the uncontaminated portion be segregated and used or sold for food purposes, and that the contaminated portion be destroyed or disposed of in some other lawful manner under the supervision of the Federal Security Agency.

**9276. Adulteration of chocolate. U. S. v. 94 Bags of Chocolate. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18762. Sample Nos. 13791-H to 13793-H, incl.)

**LIBEL FILED:** On or about January 2, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 27 and September 13, 1945, by the Hooton Chocolate Co., Newark, N. J.

**PRODUCT:** 94 bags, each containing 20 10-pound slabs, of chocolate at Cleveland, Ohio.

**LABEL, IN PART:** "Hooton Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect parts, and webbing.

**DISPOSITION:** January 10, 1946. The Ohio Confection Co., Cleveland, Ohio, claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned under the supervision of the Food and Drug Administration or, in the event that it could not be properly cleaned, that it be destroyed or disposed of for purposes other than human consumption.

**9277. Adulteration of chocolate. U. S. v. 26 Bales of Chocolate. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18554. Sample No. 52414-H.)

**LIBEL FILED:** December 13, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 12 and September 18, 1945, by Walter Baker and Co., Inc., Milton, Mass.

**PRODUCT:** 26 bales, each containing 20 10-pound slabs, of chocolate at Kenton, Ohio.

**LABEL, IN PART:** "Walter Baker's Dayton Van Lec Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** January 11, 1946. The Runkle Co., Kenton, Ohio, claimant, having admitted that a small portion of the product was in the condition described in the libel, judgment of condemnation was entered and the product was ordered released under bond for elimination of the filth, under the supervision of the Federal Security Agency. Otherwise, the product was to be destroyed.

**9278. Adulteration of bitter chocolate. U. S. v. 990 Cases and 347 Cases of Bitter Chocolate. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18628, 18629. Sample Nos. 8031-H, 8033-H.)

**LIBELS FILED:** December 7, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 28 and August 2, 1945, by Font, Gamundi and Co., from La Vega and Trujillo City, Dominican Republic.

**PRODUCT:** 990 cases and 347 cases, each containing 10 10-pound slabs, of bitter chocolate at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of filthy and decomposed substances by reason of the presence of beetles, larvae, insect excreta, webbing, and mold.

**DISPOSITION:** December 19, 1945, and January 7, 1946. The Phil Silverstein Corporation, New York, N. Y., and the Idis Chocolate & Candy Manufacturing Co., Inc., Brooklyn, N. Y., claimants, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond conditioned that all unfit portions be eliminated under the supervision of the Federal Security Agency. Otherwise, the lot was to be destroyed.

**9279. Adulteration of chocolate coating. U. S. v. 401 Bales of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18887. Sample Nos. 52801-H to 52804-H, incl.)

**LIBEL FILED:** January 22, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of June 2 and November 14, 1945, by the Hershey Chocolate Corporation, Hershey, Pa.

**PRODUCT:** 401 bales of chocolate coating at Cincinnati, Ohio.

**LABEL, IN PART:** "Hershey's Chocolate Coating Kroger Special Liquor," or "Hershey's Midwest [or "Hershey's Puritan Flavored"] Sweet Chocolate Coating."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and larvae.

**DISPOSITION:** February 11, 1946. The Kroger Grocery and Baking Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be cleaned so that it would comply with the law, under the supervision of the Food and Drug Administration.

**9280. Adulteration of chocolate coating. U. S. v. 38 Bales and 8 Bales of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18884. Sample No. 51009-H.)**

**LIBEL FILED:** January 23, 1946. District of Minnesota.

**ALLEGED SHIPMENT:** On or about August 17 and October 9, 1943, from Brooklyn, N. Y., and on or about January 18 and February 2, 1944, from Elizabethtown, Pa.

**PRODUCT:** 38 200-pound bales and 8 200-pound bales of chocolate coating at St. Paul, Minn., in the possession of Griggs, Cooper and Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 26, 1946. Griggs, Cooper and Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9281. Adulteration of chocolate coating. U. S. v. 26 Boxes of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18555. Sample No. 52415-H.)**

**LIBEL FILED:** December 13, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 15 and June 11, 1945, by Lamont, Corliss and Co., from Fulton, N. Y.

**PRODUCT:** 26 50-pound boxes of chocolate coating at Kenton, Ohio.

**LABEL, IN PART:** "Viking Chocolate Coating."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** January 11, 1946. The Runkle Co., Kenton, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9282. Adulteration and misbranding of chocolate-flavored sirup. U. S. v. 30 Cases of Chocolate Flavored Syrup. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 18630. Sample No. 8201-H.)**

**LIBEL FILED:** On or about December 6, 1945, District of Connecticut.

**ALLEGED SHIPMENT:** On or about September 14, 1945, by the J & R Syrup Co., from New York, N. Y.

**PRODUCT:** 30 cases, each containing 24 1-pound jars, of chocolate-flavored sirup at New Haven, Conn.

**LABEL, IN PART:** (Jar) "Mary-Lou Brand Chocolate Flavored Syrup Sugar Syrup, Maltose, Cocoa Flavored Artificially with Vanillin."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance consisting of malt sirup with a small amount of cocoa had been substituted in whole or in part for chocolate-flavored sirup.

Misbranding, Section 403 (a), the designation "Chocolate Flavored Syrup" was false and misleading.

**DISPOSITION:** January 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9283. Adulteration of cocoa beans. U. S. v. 99 Bags of Cocoa Beans. Consent decree of condemnation and destruction.** (F. D. C. No. 18842. Sample No. 23536-H.)

**LIBEL FILED:** January 21, 1946, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 7, 1943, by Middleton and Co., Ltd., from New Orleans, La.

**PRODUCT:** 99 bags, each containing approximately 200 pounds, of cocoa beans at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of filthy and decomposed substances by reason of the presence of insects and insect-damaged and moldy beans.

**DISPOSITION:** March 14, 1946. The consignee of the product having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

## DAIRY PRODUCTS

### BUTTER

**9284. Adulteration of butter and ice cream. U. S. v. Sheridan Creamery Co. Plea of guilty. Fine, \$100.** (F. D. C. No. 19027. Sample Nos. 27046-H, 27050-H.)

**INFORMATION FILED:** March 8, 1946, District of Wyoming, against the Sheridan Creamery Co., a corporation, Sheridan, Wyo.

**ALLEGED SHIPMENT:** On or about July 29 and 31, 1945, from the State of Wyoming into the State of Montana.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of human hair, an insect skin fragment, fibers, plant tissues, carbon, and nondescript dirt in the ice cream and of a feather barbule, an insect leg, an insect seta, plant tissue, fibers, and nondescript dirt in the butter; and, Section 402 (a) (4), the products had been prepared, packed, or held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 27, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 on each of the 2 counts.

**9285. Adulteration of butter. U. S. v. Price's Creameries, Inc. Plea of nolo contendere. Fine, \$300.** (F. D. C. No. 16626. Sample Nos. 31086-H, 32422-H, 32423-H.)

**INFORMATION FILED:** January 29, 1946, District of New Mexico, against Price's Creameries, Inc., Portales, N. Mex.

**ALLEGED SHIPMENT:** On or about May 16 and June 6, 1945, from the State of New Mexico into the State of California.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of an insect body, insect parts, insect fragments, rodent hairs, cow hair, cat hair, a fragment resembling manure, fibrous pieces, pieces of wood, scale material, and nondescript dirt; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

Further adulteration (portion), Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** March 7, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100 on each count, a total fine of \$300.

**9286. Adulteration of butter. U. S. v. Lakeview Dairies, Inc. Plea of nolo contendere. Fine, \$300.** (F. D. C. No. 17842. Sample Nos. 5673-H, 5674-H, 5677-H, 5678-H, 5681-H, 5684-H.)

**INFORMATION FILED:** March 25, 1946, Western District of Wisconsin, against the Lakeview Dairies, Inc., Pepin, Wis.

**ALLEGED SHIPMENT:** On or about March 6 and 16, 1945, from the State of Wisconsin into the State of New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted and abstracted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 4, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100 on each of the 3 counts.

**9287. Misbranding of butter. U. S. v. Loren C. Ellis (Paola Butter Co.). Plea of guilty. Fine, \$150 and costs.** (F. D. C. No. 16527. Sample Nos. 81387-F to 81389-F, incl., 81578-F, 81579-F.)

**INFORMATION FILED:** February 6, 1946, District of Kansas, against Loren C. Ellis, an individual trading as the Paola Butter Co., Paola, Kans. The defendant was charged with giving false guaranties. The guaranties were given to the Cudahy Packing Co., Chicago, Ill., on or about February 2, 1943, and to Swift & Co., Chicago, Ill., on or about April 7, 1943. They provided that each article comprising each shipment or delivery made by the defendant to the latter firms would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. Between the approximate dates of August 17 and November 3, 1944, the defendant sold and delivered to the Cudahy Packing Co. and Swift & Co. a number of cases of butter; and on or about August 22 and November 1, 1944, the Cudahy Packing Co. and Swift & Co. shipped from the State of Kansas into the State of Missouri a portion of the butter which had been delivered to them and guarantied by the defendant.

**LABEL, IN PART:** "Cudahy's Sunlight Creamery Butter Net Weight 1 Lb. \* \* \* The Cudahy Packing Co. Distributors, General Offices, Chicago, Ill.," or "Four Ounces Net [or "4 oz. Net Weight," or "One Pound Net Weight"] Swift's Brookfield Butter Distributed by Swift & Company—General Office—Chicago, Ill."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the packages contained less than the declared weight.

**DISPOSITION:** February 25, 1946. A plea of guilty having been entered, the defendant was fined \$50 on each of 3 counts, a total fine of \$150, plus costs.

#### CHEESE\*

**9288. Action to enjoin and restrain the interstate shipment of cheese and cheese products. U. S. v. Henry B. Miller (Miller Creamery). Consent decrees. Injunction granted.** (Inj. No. 112.)

**COMPLAINT FILED:** October 5, 1945, District of Kansas, against Henry B. Miller, trading as the Miller Creamery, Fort Scott, Kans.; amended October 10, 1945.

**NATURE OF CHARGE:** That the defendant had been in the past, and was at the time the complaint was filed, receiving and processing raw milk from which he manufactured and prepared cheese and cheese products, the greater part of which were introduced or delivered for introduction into interstate commerce by the defendant. The complaint charged that the cheese and cheese products so manufactured were adulterated as follows: Section 402 (a) (3), they consisted in whole or in part of filthy, putrid, or decomposed substances since they contained insect and rodent hair fragments, nondescript dirt, and other filthy substances; and, Section 402 (a) (4), they were prepared, packed, or held under insanitary conditions whereby they may have become contaminated with filth. The defendant's plant contained cockroaches and flies which contaminated the milk in the cheese vats and cream pasteurizer; the doors of the plant were unscreened; a sewer was located in an alley about 10 feet distant from the room in which cheese was manufactured; puddles of decomposed whey were permitted to accumulate; rodents, rodent runs, and

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\*See also Nos. 9248, 9294.



rodent excreta existed at various places in the plant, including the section where raw materials were stored; and the milk purchased and received by the defendant, from which the cheese and cheese products were processed and manufactured, contained large amounts of filth such as chaff, vegetable matter, cow hairs, insect parts, rodent hairs, manure, and nondescript dirt.

**PRAYER OF COMPLAINT:** That a preliminary and permanent injunction issue, restraining and enjoining the defendant from commission of the acts complained of.

**DISPOSITION:** On November 5, 1945, the defendant filed an answer to the amended complaint, denying in substance the material allegation of the complaint. On March 11, 1946, however, when the case came on for hearing, the defendant admitted the truth of the allegations of the complaint, and he consented that a permanent injunction be granted as prayed, which the court so ordered.

**9289. Adulteration of cheese. U. S. v. Swift and Co. Plea of guilty. Fine, \$100 and costs.** (F. D. C. No. 16613. Sample Nos. 2773-H, 10329-H, 16664-H, 17730-H.)

**INFORMATION FILED:** January 15, 1946, Northern District of Ohio, against Swift and Co., a corporation, Lima, Ohio.

**ALLEGED SHIPMENT:** On or about June 12, 15, and 22, 1945, from the State of Ohio into the States of Pennsylvania and Illinois.

**LABEL, IN PART:** (Portion) "Cheddar Cheese \* \* \* Colored Triple Daisies."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, colored thread fragments, metal fragments, pieces of wood, a feather fragment, a weevil, an aphid, a rodent pellet, a fragment of rodent hair, a hair resembling a rodent hair, a cow hair, and nondescript dirt; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 23, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100, plus costs.

**9290. Adulteration and misbranding of grated cheese, oil, and chick peas. U. S. v. Hermes Importing Co. Plea of guilty. Fine, \$400 and costs.** (F. D. C. No. 15533. Sample Nos. 75390-F, 75924-F to 75926-F, incl.)

**INFORMATION FILED:** June 6, 1945, Western District of Pennsylvania, against the Hermes Importing Co., a partnership, Pittsburgh, Pa.

**ALLEGED SHIPMENT:** On or about July 7 and 18 and August 8, 1944, from the State of Pennsylvania into the States of West Virginia and Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), all articles consisted in whole or in part of filthy substances by reason of the presence (in the cheese) of the larvae of storage insects, flies, fragments of larvae, whole insects such as larvae, adult insects, and insect fragments; (in the oil) storage moths and insect fragments; and (in the chick peas) insect-infested chick peas. Further adulteration, Section 402 (a) (4), the articles had been prepared or packed under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (e) (1), all articles failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), they failed to bear labels containing a statement of the quantity of the contents; and, Section 403 (i) (1), they failed to bear labels containing the common or usual name of the product.

Misbranding, Section 403 (c), the oil was an imitation of olive oil and failed to bear a label containing, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403 (i) (2), it failed to bear a label containing the common or usual name of each ingredient; and, Section 403 (k), it contained artificial flavoring and coloring and failed to bear labeling stating that fact.

**DISPOSITION:** January 17, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$400, plus costs.

**9291. Adulteration of cheese. U. S. v. 25 Kegs of Feta Cheese. Default decree of condemnation. Product ordered delivered to a rendering plant.** (F. D. C. No. 18952. Sample Nos. 12307-H, 12489-H.)

**LIBEL FILED:** January 8, 1946, District of Massachusetts.



**ALLEGED SHIPMENT:** On or about November 23, 1945, by A. Fantis and Co., from New York, N. Y.

**PRODUCT:** 25 125-pound kegs of cheese at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 22, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a rendering plant for the recovery of the fat.

**9292. Adulteration of cheese. U. S. v. 85 Kegs of Feta Type Cheese. Default decree of condemnation and destruction.** (F. D. C. No. 18886. Sample No. 47317-H.)

**LIBEL FILED:** January 31, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about December 12, 1945, by the Merchants Cold Storage Co., from Chicago, Ill.

**PRODUCT:** 85 125-pound kegs of cheese at Trinidad, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** March 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### MISCELLANEOUS DAIRY PRODUCTS\*

**9293. Adulteration of ice cream. U. S. v. The Borden Co., William A. Smith, and Elmer Brown. Pleas of not guilty. Tried to the court. Verdict of guilty. Fines, \$350, \$75, and \$75, respectively.** (F. D. C. No. 18588. Sample Nos. 25915-H, 25916-H, 25918-H.)

**INFORMATION FILED:** January 2, 1946, Western District of Texas, against the Borden Co., a corporation, El Paso, Tex., and William A. Smith, plant manager, and Elmer Brown, superintendent of the ice cream department.

**ALLEGED SHIPMENT:** On or about September 10 and 11, 1945, from the State of Texas into the State of New Mexico.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly and cockroach fragments, fragments similar to fly and cockroach fragments, cockroach excreta, rodent hairs, feather barbules, and insect fragments; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 1, 1946. The defendants having entered pleas of nolo contendere, the court directed that pleas of not guilty be entered for each defendant. Jury trial was waived and the case came on for hearing before the court. After consideration of the evidence and arguments of counsel, the court found the defendants guilty as charged and imposed fines of \$350 upon the corporate defendant and \$75 upon each of the individual defendants.

**9294. Adulteration of dairy products. U. S. v. The Frink Creamery Co. Plea of nolo contendere. Fine, \$750.** (F. D. C. No. 18599. Sample Nos. 26753-H to 26757-H, incl.)

**INFORMATION FILED:** January 28, 1946, District of Colorado, against the Frink Creamery Co., a corporation, Sanford and Fort Collins, Colo.

**ALLEGED SHIPMENT:** On or about July 27 and August 8, 1945, from the State of Colorado into the States of New Mexico, Texas, and Wyoming.

Examination showed that the cream contained a whole insect, an insect part, fibers, metallic particles, carbonaceous matter, and nondescript dirt; that the cottage cheese contained nondescript dirt; that the fluid milk contained a feather barbule, plant fibers, and nondescript dirt; and that the condensed skim milk contained an insect fragment, hair similar to rodent hair, feather barbules, and carbonaceous material.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had

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\*See also No. 9284.



been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** January 31, 1946. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$750 was imposed.

**9295. Misbranding of oleomargarine. U. S. v. Armour and Co. Plea of nolo contendere. Fine, \$250 on count 1; imposition of sentence suspended on count 2. (F. D. C. No. 18587. Sample Nos. 31174-H, 32226-H.)**

**INFORMATION FILED:** February 11, 1946, Southern District of California, against Armour and Co., a corporation, Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about July 27 and September 8, 1945, from the State of California into the State of Arizona.

**LABEL, IN PART:** "Mayflower Vegetable Oleomargarine \* \* \* Vegetable Fats 80.50%."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Vegetable Fats 80.50%" was false and misleading in that it represented that the article contained 80.50 percent of vegetable fats, whereas it contained a lesser amount; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity prescribed by the regulations for oleomargarine since it contained less than the required 80 percent of fat.

**DISPOSITION:** March 18, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$250 on count 1 and suspended imposition of sentence for 2 years on count 2, conditioned that the defendant does not again, during that period, violate the Federal Food, Drug, and Cosmetic Act.

### EGGS

**9296. Adulteration of frozen whole eggs. U. S. v. Burdett J. Holmes (B. J. Holmes Sales Co.). Plea of nolo contendere. Fine, \$1,500. (F. D. C. No. 17835. Sample Nos. 61865-F, 61866-F, 96816-F.)**

**INFORMATION FILED:** March 27, 1946, Northern District of California, against Burdett J. Holmes, trading as the B. J. Holmes Sales Co., San Francisco, Calif.

**ALLEGED SHIPMENT:** Between the approximate dates of November 24 and December 8, 1944, from the State of California into the State of Texas.

**LABEL, IN PART:** "Holmestead Brand Frozen Whole Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 23, 1946. A plea of nolo contendere having been entered, the defendant was fined \$1,500.

**9297. Adulteration of frozen whole eggs. U. S. v. Independent Food Products Co., Inc. Plea of guilty. Fine, \$400. (F. D. C. No. 16554. Sample Nos. 44348-F, 5803-H.)**

**INFORMATION FILED:** September 28, 1945, District of New Jersey, against the Independent Food Products Co., Inc., Newark, N. J.

**ALLEGED SHIPMENT:** On or about October 10, 1944, and January 11, 1945, from the State of New Jersey into the State of New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** December 14, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$200 on each of the 2 counts.

**9298. Adulteration of frozen whole eggs. U. S. v. Edward Aaron Co. Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 16528. Sample No. 66986-F.)**

**LIBEL FILED:** August 23, 1945, District of Kansas, against the Edward Aaron Co., a partnership, Fort Scott, Kans.

**ALLEGED SHIPMENT:** On or about September 7, 1944, from the State of Kansas into the State of Missouri.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 1, 1945. A plea of guilty having been entered, the defendant was fined \$100, plus costs.

**9299. Adulteration of frozen whole eggs. U. S. v. 492 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18685. Sample No. 8133-H.)**

**LIBEL FILED:** On or about December 19, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 3, 1945, by the Cudahy Packing Co., Alma, Nebr.

**PRODUCT:** 492 30-pound cans of frozen whole eggs at New York, N. Y.

**LABEL, IN PART:** "Cudahy's Sunlight Whole Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** January 9, 1946. The Cudahy Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

**9300. Adulteration of frozen whole eggs. U. S. v. 350 Cans and 31 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16655, 16706. Sample Nos. 7089-H, 7508-H.)**

**LIBELS FILED:** June 28 and July 24, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about May 23 and 28, 1945, by Christian and Co., Inc., from Pittsburgh, Pa.

**PRODUCT:** 381 30-pound cans of frozen whole eggs at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 30, 1945. The cases having been consolidated and Harry G. Clark, claimant, having admitted the allegations of the libels, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

### FISH AND SHELLFISH

**9301. Adulteration of frozen hake fillets. U. S. v. 912 Boxes of Frozen Hake Fillets. Default decree of forfeiture and destruction. (F. D. C. No. 18873. Sample No. 19945-H.)**

**LIBEL FILED:** January 18, 1946, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about September 17, 1945, by Corker and Winsor, from Boston, Mass.

**PRODUCT:** 912 10-pound boxes of frozen hake fillets at Madison, Wis.

**LABEL, IN PART:** "Cellophane Wrapped Hake S Bells Fillet Co. New Bedford, Mass. Frozen Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 7, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9302. Adulteration of frozen hake fillets. U. S. v. 704 Boxes of Frozen Hake Fillets (and 2 other seizure actions against frozen hake fillets). Consent decrees of condemnation and destruction. (F. D. C. Nos. 18724, 18725, 18730. Sample Nos. 17013-H, 18089-H, 38918-H.)**

**LIBELS FILED:** January 7, 1946, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 15, 1945, by the General Ice and Cold Storage Co., from New Bedford, Mass.

**PRODUCT:** 704 15-pound boxes, 301 10-pound boxes, and 558 15-pound boxes of frozen hake fillets at Chicago, Ill.

**LABEL, IN PART:** (Portion) "Frosted Fillets Cape Cod Fillet Co. New Bedford, Mass. Hake Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 13, 1946. The consignees of the product having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.



**9303. Adulteration of frozen hake fillets. U. S. v. 94 Cartons of Frozen Hake Fillets. Consent decree of condemnation and destruction. (F. D. C. No. 18568. Sample No. 38916-H.)**

**LIBEL FILED:** December 21, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 28, 1945, by J. J. Ryan, from Boston, Mass.

**PRODUCT:** 94 10-pound cartons of frozen hake fillets at Chicago, Ill.

**LABEL, IN PART:** "Frozen Hake Fillets Packed by Seaview Fish Co., Inc., New Bedford, Massachusetts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fillets.

**DISPOSITION:** March 13, 1946. Fish Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9304. Adulteration of herring. U. S. v. 10 Boxes of Herring. Default decree of condemnation and destruction. (F. D. C. No. 18585. Sample No. 14080-H.)**

**LIBEL FILED:** December 17, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 8, 1945, by the Lake Superior Fish Co., from Duluth, Minn.

**PRODUCT:** 10 50-pound boxes of herring at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9305. Adulteration of canned sardines. U. S. v. Martinez Food Cannery. Plea of nolo contendere. Fine, \$200. (F. D. C. No. 17814. Sample Nos. 62313-F, 62314-F, 62318-F, 62319-F, 22922-H.)**

**INFORMATION FILED:** February 19, 1946, Northern District of California, against the Martinez Food Cannery, a corporation, Martinez, Calif.

**ALLEGED SHIPMENT:** On or about September 6, 1944, and February 23, 1945, from the State of California into the States of Missouri and North Carolina.

**LABEL, IN PART:** "Seine Brand California Sardines Packed By Martinez Food Cannery, Ltd.," or "California Natural Style [or "Fancy California"] Sardines \* \* \* The Great Atlantic & Pacific Tea Co., New York, N. Y. Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed sardines.

**DISPOSITION:** April 8, 1946. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$200 was imposed.

**9306. Misbranding of canned sardines. U. S. v. 249 Cases of Canned Sardines. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18844. Sample No. 46774-H.)**

**LIBEL FILED:** January 16, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 20, 1945, by the Funsten Co., from Oakland, Calif.

**PRODUCT:** 249 cases, each containing 48 cans, of sardines at Columbus, Ohio. Examination showed that the article was short-weight.

**LABEL, IN PART:** "Sierra California Sardines in Tomato Sauce Net weight 15 oz. Packed by San Xavier Fish Pkg. Co., Monterey, Calif."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** April 10, 1946. The F. J. Beasley Co., Athens, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9307. Misbranding of sardine fillets. U. S. v. Sea Pride Packing Co. Plea of nolo contendere. Fine, \$25. (F. D. C. No. 16617. Sample No. 84542-F.)**

**INFORMATION FILED:** December 5, 1945, Northern District of California, against the Sea Pride Packing Co., a partnership, San Francisco, Calif.

**ALLEGED SHIPMENT:** On or about December 22, 1944, from the State of California into the State of Illinois.

**LABEL, IN PART:** (Can) "Calistar Sardine Fillets Boneless Contents 8 Oz. Avoir."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Contents 8 Oz. Avoir" was false and misleading since the cans contained less than 8 ounces; and, Section 403 (e) (2), the label failed to bear an accurate statement of the quantity of the contents.

**DISPOSITION:** January 7, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$25.

**9308. Adulteration of frozen shrimp. U. S. v. 300 Cartons and 70 Lugs of Frozen Shrimp. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18794. Sample Nos. 44442-H, 44443-H.)**

**LIBEL FILED:** January 7, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about December 5, 1945, by Deborah Sabel, from Nogales, Ariz.

**PRODUCT:** 300 5-pound cartons and 70 25-pound lugs of frozen shrimp at Los Angeles, Calif.

**LABEL, IN PART:** (Cartons) "Gulf Shrimp Produced by Standard Fisheries Co. San Pedro, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** January 14, 1946. G. and S. Seafood Co., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the fit portion be segregated from the unfit portion under the supervision of the Food and Drug Administration.

**9309. Adulteration of canned squid. U. S. v. 164 Cartons of Canned Squid. Default decree of forfeiture and destruction. (F. D. C. No. 18979. Sample No. 34770-H.)**

**LIBEL FILED:** January 16, 1946, District of Puerto Rico.

**ALLEGED SHIPMENT:** On or about August 23, 1945, by the Connell Brothers Co., Ltd., of San Francisco, Calif., from Galveston, Tex.

**PRODUCT:** 164 cartons, each containing 48 15-ounce cans, of squid at San Juan, P. R.

**LABEL, IN PART:** "Best Ever Brand California Squid \* \* \* Packed by Hovden Food Products Corporation, Monterey California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** February 21, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9310. Adulteration of canned tuna fish. U. S. v. Franco-Italian Packing Co. Plea of nolo contendere. Fine, \$500 on count 1; imposition of sentence suspended for 2 years on the remaining count. (F. D. C. No. 16595. Sample Nos. 59951-F, 59952-F.)**

**INFORMATION FILED:** January 2, 1946, Southern District of California, against the Franco-Italian Packing Co., a corporation, Terminal Island, Calif.

**ALLEGED SHIPMENT:** On or about September 11, 1944, from the State of California into the State of Illinois.

**LABEL, IN PART:** "Franco Brand White Meat Tuna Flakes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 18, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$500 on count 1 and suspended imposition of sentence on the remaining count for a period of 2 years.

**9311. Adulteration of canned and grated tuna. U. S. v. Sun Harbor Packing Co. Plea of nolo contendere. Fine, \$1,500. (F. D. C. No. 16603. Sample Nos. 74341-F, 87022-F.)**

**INFORMATION FILED:** January 30, 1946, Southern District of California, against the Sun Harbor Packing Co., a corporation, San Diego, Calif.



**ALLEGED SHIPMENT:** On or about September 25 and 26, 1944, from San Diego, Calif., to Los Angeles, Calif., for introduction into interstate commerce.

**LABEL, IN PART:** "Premier Tuna Fish White Meat Francis H. Leggett & Co. Distributors New York," or "Halfhill's Brand Grated White Meat Tuna \* \* \* Distributed By The Halfhill Company Los Angeles."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 20, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$750 on each count.

**9312. Adulteration of frozen whiting. U. S. v. 637 Cases of Frozen Whiting. Consent decree of condemnation and destruction. (F. D. C. No. 18726. Sample Nos. 18088-H, 18090-H.)**

**LIBEL FILED:** January 7, 1946, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 24, 1945, by Milton Lippman, from Boston, Mass.

**PRODUCT:** 637 15-pound boxes of frozen whiting at Chicago, Ill.

**LABEL, IN PART:** "Seagate Brand Fancy Frosted Fillets Seagate Fisheries, Inc. Boston, Mass. \* \* \* Butterfly Whiting."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 7, 1946. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

## FRUITS AND VEGETABLES\*

### CANNED FRUIT

**9313. Misbranding of canned apricots. U. S. v. Drew Canning Co. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 16591. Sample Nos. 73421-F, 73461-F, 73462-F, 73469-F, 73470-F.)**

**INFORMATION FILED:** January 23, 1946, Northern District of California, against the Drew Canning Co., a partnership, Campbell, Calif.

**ALLEGED SHIPMENT:** On or about August 4 and September 1 and 6, 1944, from the State of California into the States of Wisconsin, Kansas, and Arkansas.

**LABEL, IN PART:** "Jack Sprat [or "Harvest Home Brand"] Unpeeled Halves Apricots In Heavy Syrup," or "Drew Unpeeled Halves [or "Whole Unpeeled"] Apricots In Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "In Heavy Syrup" was false and misleading in that it represented and suggested that the product was packed in heavy sirup, whereas it was packed in light sirup; and, Section 403 (g) (2), the product failed to conform to the definition and standard of identity for canned apricots since the label did not bear the name of the optional liquid packing medium present in the product, i. e., light sirup, but bore the statement "In Heavy Syrup."

**DISPOSITION:** February 8, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100 on each count, a total fine of \$300.

**9314. Misbranding of canned apricots. U. S. v. Frank Raiter Canning Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 17812. Sample Nos. 83888-F, 22631-H.)**

**INFORMATION FILED:** On or about February 27, 1946, Northern District of California, against the Frank Raiter Canning Co, a corporation, Salinas, Calif.

**ALLEGED SHIPMENT:** On or about August 18 and October 17, 1944, from the State of California into the States of Missouri and Washington.

**LABEL, IN PART:** (One shipment) "Red Sail Whole Peeled Apricots In Light Syrup." The remaining shipment was unlabeled and was invoiced, "Standard Halves Unpeeled Apricots In Light Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), (portion) the label of the article failed to bear the name of the food and the name of the optional

\*See also Nos. 9202, 9203.

packing ingredient, as specified in the definition and standard of identity. Further misbranding, Section 403 (g) (2), (remainder) the label failed to bear the name of the optional packing ingredient, since it bore the statement "In Light Syrup," whereas the article was packed in sirup designated as "slightly sweetened water" in the definition and standard of identity for canned apricots.

**DISPOSITION:** March 20, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

**9315. Misbranding of canned cherries. U. S. v. 54 Cases of Canned Cherries. Consent decree ordering portion of product released; remainder released under bond for relabeling. (F. D. C. No. 18763. Sample No. 30340-H.)**

**LIBEL FILED:** January 4, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about September 25, 1945, by the Blackinton and Son Canning Co., from Ogden, Utah.

**PRODUCT:** 54 cases, each containing 6 6-pound, 8-ounce cans, of cherries at Denver, Colo. Examination showed that a portion of the product, which was identified by a certain code, was light sweet cherries and not, as labeled, dark sweet cherries.

**LABEL, IN PART:** "Accepted Brand Unpitted Dark Sweet Cherries."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Unpitted Dark Sweet Cherries" was false and misleading.

**DISPOSITION:** February 28, 1946. The Blackinton and Son Canning Co. having appeared as claimant, and the court having found that 34½ cases of the product were properly labeled, judgment was entered ordering that portion released to the claimant. The court further ordered that the remainder be released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.

**9316. Misbranding of canned fruit cocktail. U. S. v. 248 Cases of Canned Fruit Cocktail. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 18676. Sample No. 46606-H.)**

**LIBEL FILED:** On or about December 19, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about November 1, 1945, by W. J. Withers, Oakland, Calif.

**PRODUCT:** 248 cases, each containing 24 1-pound, 13-ounce cans, of fruit cocktail at New York, N. Y. Examination showed that more than 20 percent by weight of the peach and pear units were excessively small or large.

**LABEL, IN PART:** "Pope Brand Fruit Cocktail."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned fruit cocktail since more than 20 percent by weight of the peach and pear units in the container failed to meet the test for uniformity of size, as specified in the standard, and the product was not labeled as being substandard.

**DISPOSITION:** January 24, 1946. M. DeRosa, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

#### DRIED FRUIT

**9317. Adulteration of diced fruits and peels. U. S. v. 22 Cartons of Diced Fruits and Peels. Default decree of condemnation and destruction. (F. D. C. No. 18939. Sample No. 142-H.)**

**LIBEL FILED:** On or about January 15, 1946, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about July 20, 1945, by H. Baron and Co., Inc., from Rahway, N. J.

**PRODUCT:** 22 50-pound cartons of diced fruits and peels at Lakeland, Fla.

**LABEL, IN PART:** "Baron's Fruits and Peels."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insects, insect fragments, rodent hairs, and fermented fruits and peels.

**DISPOSITION:** February 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9318. Adulteration of dried cherries. U. S. v. 12 Bags of Dried Cherries. Default decree of condemnation and destruction.** (F. D. C. No. 18917. Sample No. 14273-H.)

**LIBEL FILED:** February 1, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about February 25, 1943, by Feld Brothers, Inc., from New York, N. Y.

**PRODUCT:** 12 bags of dried cherries at Cincinnati, Ohio.

**LABEL, IN PART:** "Oregon Dried Black Cherries."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested fruit.

**DISPOSITION:** March 8, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9319. Adulteration of dates. U. S. v. Robert Stuart Butler (North Ontario Dried Fruit Co.). Plea of nolo contendere. Fine, \$250.** (F. D. C. No. 17825. Sample No. 26729-H.)

**INFORMATION FILED:** March 15, 1946, Southern District of California, against Robert Stuart Butler, trading as the North Ontario Dried Fruit Co., Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about March 5, 1945, from the State of California into the State of Utah.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been packed and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 1, 1946. A plea of nolo contendere having been entered, the defendant was fined \$250.

**9320. Adulteration of dates. U. S. v. 11 Cartons of Dates. Default decree of condemnation and destruction.** (F. D. C. No. 18778. Sample No. 44216-H.)

**LIBEL FILED:** January 2, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about November 9, 1945, by M. L. Reid, from Yuma, Ariz.

**PRODUCT:** 11 15-pound cartons of dates at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insects, insect excreta, and fermented dates.

**DISPOSITION:** February 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9321. Adulteration of dried prunes. U. S. v. 45 Cases of Dried Prunes. Default decree of condemnation and destruction.** (F. D. C. No. 19069. Sample No. 10870-H.)

**LIBEL FILED:** February 5, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about December 10, 1945, by the Paulus Brothers Packing Co., from Salem, Oreg.

**PRODUCT:** 45 cases, each containing 12 1-pound, 2-ounce cans, of dried prunes at Buffalo, N. Y.

**LABEL, IN PART:** "Richland Prepared Oregon Dried Prunes In Heavy Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9322. Adulteration of raisins. U. S. v. 600 Cartons and 37 Cartons of Raisins. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18972, 18974. Sample Nos. 12601-H, 12602-H.)

**LIBELS FILED:** January 11 and 14, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about November 1, 1945, by Jack Gomperts and Co., Inc., from Turlock, Calif.

**PRODUCT:** 600 cartons and 37 cartons, each containing 30 pounds, of raisins at Malden and Boston, Mass., respectively.

**LABEL, IN PART:** "Kanco Brand Soda Dipped Thompson Seedless Raisins Packed by Turlock Dehydrator & Packing Co. Turlock, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy raisins.

**DISPOSITION:** February 20, 1946. Jack Gomperts and Co., Inc., claimant, having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond for conversion into distilled spirits under the supervision of the Federal Security Agency.

**9323. Adulteration of dried black raspberries. U. S. v. 10 Barrels of Dried Black Raspberries. Default decree of condemnation and destruction. (F. D. C. No. 18919. Sample No. 52437-H.)**

**LIBEL FILED:** February 1, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 29, 1945, by W. H. Food Products, from Williamson, N. Y.

**PRODUCT:** 10 200-pound barrels of dried black raspberries at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested fruit.

**DISPOSITION:** March 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9324. Adulteration of dried black raspberries. U. S. v. 8 Barrels of Dried Black Raspberries. Default decree of condemnation and destruction. (F. D. C. No. 18918. Sample No. 52435-H.)**

**LIBEL FILED:** February 1, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about February 15, 1945, by W. E. Otto and Co., from Geneva, N. Y.

**PRODUCT:** 8 200-pound barrels of dried black raspberries at Cincinnati, Ohio.

**LABEL, IN PART:** "Evaporated Black Raspberries."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was insect-infested, and it contained moldy raspberries.

**DISPOSITION:** March 8, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9325. Misbranding of stuffed fruit. U. S. v. 473 Cartons of Stuffed Fruit. Default decree of condemnation and destruction. (F. D. C. No. 18748. Sample Nos. 29990-H, 29991-H.)**

**LIBEL FILED:** January 2, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about July 8 and August 9, 1945, by the Liberty Fig and Date Co., from Galewood, Ill.

**PRODUCT:** 294 1-pound cartons and 179 2-pound cartons of stuffed fruit at San Francisco, Calif.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label designations, "Stuffed Fruit" and "Stuffed Fruits," were false and misleading since the articles contained a substantial proportion of fruits that were not stuffed.

**DISPOSITION:** March 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### FRESH AND FROZEN FRUIT

**9326. Adulteration of fresh dates. U. S. v. 39 Boxes of Fresh Dates. Default decree of condemnation and destruction. (F. D. C. No. 18576. Sample No. 43447-H.)**

**LIBEL FILED:** December 17, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about November 17, 1945, by Mary Ehrlich, from Yuma, Ariz.

**PRODUCT:** 39 25-pound boxes of fresh dates at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect excreta.

**DISPOSITION:** January 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9327. Adulteration of frozen cherries. U. S. v. F. G. Lamb & Co. Plea of guilty. Fine, \$45. (F. D. C. No. 16506. Sample No. 9525-H.)**

**INFORMATION FILED:** November 28, 1945, District of Oregon, against F. G. Lamb, a partnership, Freewater, Ore.

**ALLEGED SHIPMENT:** On or about December 26, 1944, from the State of Oregon into the State of Pennsylvania.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots.

**DISPOSITION:** April 2, 1946. A plea of guilty having been entered, the defendant was fined \$45.

**9328. Misbranding of frozen apples. U. S. v. 1,076 Cans of Frozen Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18999. Sample Nos. 3568-H, 3569-H.)**

**LIBEL FILED:** January 21, 1946, District of Maryland.

**ALLEGED SHIPMENT:** On or about October 24 and 30, 1945, by the Ranson Evaporating Co., from Ranson, W. Va.

**PRODUCT:** 500 20-pound cans and 576 19-pound cans of frozen apples at Hagerstown, Md.

**NATURE OF CHARGE:** Misbranding, Section 403 (e), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and the label failed to contain an accurate statement of the quantity of the contents; Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient; and, Section 403 (k), the product contained a chemical preservative, sulfur dioxide, and it failed to bear labeling stating that fact.

**DISPOSITION:** February 26, 1946. Otto W. Cuyler, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled and brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9329. Misbranding of frozen apple slices. U. S. v. 1,180 Cans of Frozen Apple Slices. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18977. Sample Nos. 3168-H, 3169-H.)**

**LIBEL FILED:** January 14, 1946, District of Columbia.

**ALLEGED SHIPMENT:** On or about November 3, 1945, by R. D. Pringle and Co., from Ogden, Utah.

**PRODUCT:** 1,180 cans of frozen apple slices at Washington, D. C. Examination showed that the product contained a chemical preservative, sulfur dioxide.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (k), it contained a chemical preservative, and it failed to bear labeling stating that fact.

**DISPOSITION:** January 30, 1946. R. D. Pringle and Co., Modesto, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

#### JELLY AND PRESERVES

**9330. Adulteration and misbranding of jelly. U. S. v. Clyde M. Hesmer, Inc. Plea of guilty. Fine, \$250. (F. D. C. No. 16565. Sample Nos. 68470-F, 68471-F, 13538-H to 13540-H, incl.)**

**INFORMATION FILED:** December 29, 1945, Southern District of Indiana, against Clyde M. Hesmer, Inc., Evansville, Ind.

**ALLEGED SHIPMENT:** On or about July 6, 1944, and January 31 and February 7, 1945, from the State of Indiana into the State of Kentucky.

**LABEL, IN PART:** "Hesmer's Raspberry [or "Grape"] Jelly," "Hesmer's Grape-Pectin Jelly," or "Hesmer's Blackberry-Pectin Jelly."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, raspberry juice, grape juice, or blackberry juice, had been in part omitted from the products; and, Section 402 (b) (2), articles deficient in raspberry, grape, or blackberry juice had been substituted in whole or in part for raspberry, grape, and blackberry jellies, for which definitions and standards of identity have been prescribed by the regulations.



Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for raspberry, grape, and blackberry jellies since they were made from mixtures composed of less than 45 parts by weight of the raspberry, grape, and blackberry juice ingredients, respectively, to each 55 parts by weight of one of the optional saccharine ingredients specified in the definition and standard.

**DISPOSITION:** March 14, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$250.

**9331. Adulteration and misbranding of raspberry preserves. U. S. v. 80 Dozen Jars, 22 Dozen Jars, and 12 Cases of Raspberry Preserve. Default decrees of condemnation. Product ordered delivered to a charitable institution. (F. D. C. Nos. 13117, 13405. Sample Nos. 81831-F, 81844-F.)**

**LIBELS FILED:** On or about August 2 and 30, 1944, District of Connecticut; amended libels filed subsequently.

**ALLEGED SHIPMENT:** On or about May 24 and July 1, 1944, by the Rosen Products, Inc., from Brooklyn, N. Y.

**PRODUCT:** 80 dozen 1-pound jars and 22 dozen 2-pound jars of raspberry preserve at New Britain, Conn., and 12 cases, each containing 24 1-pound jars, of raspberry preserves at Bridgeport, Conn.

**LABEL, IN PART:** "Fruitcrest Pure Raspberry Preserve Packed for Fruitcrest Co., Brooklyn, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, red raspberries, had been in whole or in part omitted from the product; Section 402 (b) (2), a mixture consisting of black raspberry pomace, a saccharine ingredient, red raspberries or red raspberry pomace, and (in a portion) phosphoric acid or acid phosphate had been substituted for pure raspberry preserve, a food for which a definition and standard of identity has been prescribed by the regulations; Section 402 (b) (3), inferiority had been concealed by the addition of black raspberry pomace and (in a portion) phosphoric acid or acid phosphate; and, Section 402 (b) (4), black raspberry pomace and (in a portion) phosphoric acid or acid phosphate had been added to the article, or mixed or packed with it, so as to make it appear to be raspberry preserve, which is better or of greater value than was the product.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for raspberry preserve since it was made from a mixture composed of less than 45 parts by weight of mature, properly prepared red raspberries to each 55 parts by weight of one, or a mixture, of the saccharine ingredients specified in the definition and standard, and since it contained black raspberry pomace and (in a portion) phosphoric acid or acid phosphate, which ingredients are not permitted as optional ingredients of raspberry preserve.

**DISPOSITION:** May 3, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to charitable institutions, conditioned that the labels be removed.

**9332. Adulteration and misbranding of youngberry preserves. U. S. v. 83 Cases of Youngberry Preserves. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18989. Sample No. 32298-H.)**

**LIBEL FILED:** January 22, 1946, District of Arizona.

**ALLEGED SHIPMENT:** On or about December 5, 1945, by the Pacific Coast Packing Co., from San Diego, Calif.

**PRODUCT:** 83 cases, each containing 24 1-pound jars, of youngberry preserves at Phoenix, Ariz.

**LABEL, IN PART:** "Imperial Brand Pure Youngberry Preserves."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 68 percent of soluble solids had been substituted in whole or in part for youngberry preserves.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity prescribed by the regulations since it had not been concentrated by heat to such point that the soluble solids content of the finished preserves was not less than 68 percent.

**DISPOSITION:** March 28, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.



## MISCELLANEOUS FRUIT PRODUCTS

**9333. Adulteration of glace apricots. U. S. v. Townsend's California Glace Fruits Corporation. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 17779. Sample Nos. 75680-F, 10408-H.)**

**INFORMATION FILED:** January 23, 1946, Northern District of California, against Townsend's California Glace Fruit Corporation, San Francisco, Calif.

**ALLEGED SHIPMENT:** On or about November 24, 1944, from the State of California into the State of Pennsylvania.

**LABEL, IN PART:** "California Glace Fruits Apricots."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 4, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$50.

**9334. Adulteration of candied fruit. U. S. v. 15 Cases of Candied Fruit. Default decree of condemnation and destruction. (F. D. C. No. 18930. Sample No. 25264-H.)**

**LIBEL FILED:** February 1, 1946, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about December 3, 1945, by Festive Products, San Antonio, Texas.

**PRODUCT:** 15 cases, each containing 24 15-ounce cans, of candied fruit at Birmingham, Ala.

**LABEL, IN PART:** "Festive Atomic Fruit Bombs, by Emil Luft."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9335. Adulteration of glazed fruits and peels. U. S. v. 32 Cartons of Baron's Fruits and Peels. Default decree of condemnation and destruction. (F. D. C. No. 18560. Sample No. 10729-H.)**

**LIBEL FILED:** December 11, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about July 6, 1945, by the Hall Baking Co., from Somerville, Mass.

**PRODUCT:** 32 cartons of glazed fruits and peels at Buffalo, N. Y.

**LABEL, IN PART:** (Cartons) "Baron's Fruits and Peels Assorted Net Weight 30 Lbs. When Packed Manufactured By H. Baron & Co. Incorporated Linden, N. J."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, mites, larvae, and insect parts.

**DISPOSITION:** January 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9336. Adulteration of raisin pie filling. U. S. v. 7 Pails of Raisin Pie Filling. Default decree of condemnation and destruction. (F. D. C. No. 18834. Sample No. 56078-H.)**

**LIBEL FILED:** January 9, 1946, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 24, 1945, by Charles P. Wagner and Brother, from New Orleans, La.

**PRODUCT:** 7 pails of raisin pie filling at Pittsburgh, Pa.

**LABEL, IN PART:** "Wagners Quality Helen Ann Raisin Pie Filling."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, mites, and insect parts.

**DISPOSITION:** February 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## VEGETABLES\*

**9337. Adulteration of canned beans in tomato sauce. U. S. v. 2,145 Cases of Canned Beans in Tomato Sauce (and 3 other seizure actions against canned beans in tomato sauce). Decrees of condemnation. Portion of product ordered destroyed; remainder ordered delivered to charitable institutions.** (F. D. C. Nos. 18548 to 18551, incl., 19054. Sample Nos. 25885-H, 25886-H, 26794-H, 26798-H, 30378-H.)

**LIBELS FILED:** December 14, 1945, and February 13, 1946, District of Colorado.

**ALLEGED SHIPMENT:** Between the approximate dates of October 11 and November 10, 1945, by the Norfolk Packing Co., from Plattsmouth, Nebr.

**PRODUCT:** 2,606 cases at Denver, Colo., and 386 cases at Pueblo, Colo., each case containing 24 1-pound, 4-ounce, cans of beans in tomato sauce.

**LABEL, IN PART:** "Harvest Treasure [or "Regards"] \* \* \* Beans in Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), a portion of the article consisted in whole or in part of a filthy substance by reason of the presence of worms; Section 402 (b) (2), (all lots) small rocks had been substituted in whole or in part for beans in tomato sauce; and, Section 402 (b) (4), (all lots) small rocks had been packed with the article so as to reduce its quality.

**DISPOSITION:** Between December 28, 1945, and March 1, 1946, the shipper having authorized the taking of final decrees, judgments of condemnation were entered. The portion of the product containing worms was ordered destroyed and the remainder of the product was ordered delivered to charitable institutions.

**9338. Adulteration of frozen green beans. U. S. v. 68 Cases of Frozen Green Beans. Default decree of condemnation and destruction.** (F. D. C. No. 18758. Sample No. 44439-H.)

**LIBEL FILED:** January 2, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about August 31, 1944, by the Dixie Frosted Foods Co., from Georgiana, Ala.

**PRODUCT:** 68 cases, each containing 10 4-pound packages, of frozen green beans at Los Angeles, Calif.

**LABEL, IN PART:** "Brakeley's 'Little Darling' Fresh Frozen \* \* \* Green Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9339. Misbranding of frozen lima beans. U. S. v. 2,760 Cases of Frozen Lima Beans. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18636. Sample No. 7955-H.)

**LIBEL FILED:** December 10, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about July 30 and August 1, 1945, by Flavor Fresh Foods, from Pasadena, Calif.

**PRODUCT:** 2,760 cases, each containing 24 cartons, of frozen lima beans at Asbury Park, N. J. Examination showed that the product was frozen, soaked, dried lima beans.

**LABEL, IN PART:** "Hydrated Fordhook Lima Beans, Net Weight 2½ Lbs. \* \* \* Packed by California Consumers Corporation Los Angeles Calif."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Hydrated Fordhook Lima Beans" was misleading as applied to frozen, soaked, dried lima beans since it created the impression that the article was frozen, succulent lima beans.

**DISPOSITION:** January 15, 1946. The Flavor Fresh Foods Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**9340. Adulteration of canned pinto beans. U. S. v. 768 Cases and 715 Cases of Canned Pinto Beans (and 1 seizure of other lots of the same product). Default decrees of condemnation and destruction.** (F. D. C. Nos. 18821, 18822. Sample Nos. 30342-H, 30343-H, 30346-H, 30347-H.)

**LIBELS FILED:** January 10 and 21, 1946, District of Colorado.

\*See also Nos. 9248, 9290.



**ALLEGED SHIPMENT:** On or about August 30 and October 6, 1945, by the Arizona Products Cannery Co., from Phoenix, Ariz.

**PRODUCT:** 1,564 cases, each containing 24 1-pound, 4-ounce cans, of pinto beans at Denver, Colo. Samples of the product were found to be decomposed and sour and to contain small stones.

**LABEL, IN PART:** "Schrock Brand Plain Pinto Beans [or "Pinto Beans in Chili sauce"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (849 cases) the article consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2) and (4), (1,483 cases) stones had been substituted in whole or in part for pinto beans and had been packed with the article so as to reduce its quality.

**DISPOSITION:** March 15 and April 2, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9341. Misbranding of honey-flavored red beans. U. S. v. Miller's Groceteria Co. Plea of nolo contendere. Fine, \$1,100. (F. D. C. No. 16530. Sample Nos. 26412-H to 26414-H, incl., 26526-H, 26527-H, 26612-H to 26615-H, incl., 26716-H, 26717-H.)**

**INFORMATION FILED:** November 23, 1945, District of Colorado, against the Miller's Groceteria Co., a corporation, Denver, Colo. It was charged that the defendant received in interstate commerce, on or about October 3, 1944, from the Otoe Food Products Co., Nebraska City, Nebr., a consignment of red beans which were misbranded; and that on or about February 5, 1945, the defendant delivered, for pay or otherwise, a number of cans of the product to various persons at its branch stores.

**LABEL, IN PART:** "Otoe Registered Brand \* \* \* Honey Flavored Red Beans."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "Honey Flavored," "Containing Honey," and "Honey flavor adds a new taste appeal," were false and misleading since they represented and suggested that the article contained an appreciable amount of honey; and that it had the flavor and taste of honey. The product contained little or no honey, and it did not have the flavor and taste of honey.

**DISPOSITION:** January 27, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$100 on each count, a total fine of \$1,100.

**9342. Adulteration of soy beans. U. S. v. 4 Bags of Soy Beans. Default decree of condemnation and destruction. (F. D. C. No. 18761. Sample Nos. 14451-H, 14452-H.)**

**LIBEL FILED:** December 29, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 23 and August 2, 1945, by the Soy Bean Products Co., from Chicago, Ill.

**PRODUCT:** 4 100-pound bags of soy beans at Cleveland, Ohio.

**LABEL, IN PART:** "Whitson's Soy Nuts," or "Soy Nuts Selected Soy Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** February 7, 1946. The sole interveners having withdrawn their claims, judgment of condemnation was entered and the product was ordered destroyed.

**9343. Adulteration of diced carrots. U. S. v. 265 Cases of Diced Carrots. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18895. Sample No. 22096-H.)**

**LIBEL FILED:** January 24, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 24, 1945, by the Friday Canning Corporation, from New Richmond, Wis.

**PRODUCT:** 265 cases, each containing 6 6-pound, 8-ounce cans, of diced carrots at St. Louis, Mo.

**LABEL, IN PART:** "Friday's Diced Carrots."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of sour and decomposed carrots.

**DISPOSITION:** March 14, 1946. The Friday Canning Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9344. Misbranding of canned corn. U. S. v. 818 Cases and 870 Cases of Canned Corn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18850. Sample Nos. 30361-H, 30362-H.)

**LIBEL FILED:** January 21, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about November 16 and December 3, 1945, by the Eddington Canning Co., from Springville, Utah.

**PRODUCT:** 818 cases and 870 cases, each containing 24 cans, of corn at Denver, Colo. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Eddington's Spring Kist Vacuum Packed Whole Kernel Golden Sweet Corn [or "Eddington's Utah Trail Golden Sweet Whole Kernel Corn Vacuum Packed"] Contents 12 Oz. Avoir."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 13, 1946. The Eddington Canning Co., claimant, having admitted the allegations of the libel, judgment was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**9345. Misbranding of mushrooms. U. S. v. Rocco Manfredi. Plea of nolo contendere. Fine, \$100.** (F. D. C. No. 16552. Sample Nos. 85220-F, 4058-H.)

**INFORMATION FILED:** October 4, 1945, Eastern District of Pennsylvania, against Rocco Manfredi, Toughkenamon, Pa.

**ALLEGED SHIPMENT:** On or about November 9, 1944, and March 7, 1945, from Avondale, Pa., to New York, N. Y.

**PRODUCT:** Mushrooms shipped in baskets.

**LABEL, IN PART:** (Portion) "3 Lb. Net Mushrooms." The remainder was unlabeled.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of contents since a number of the baskets contained less than the declared weight of 3 pounds net; and the remainder of the baskets bore no label containing a statement of the quantity of the contents.

**DISPOSITION:** January 9, 1946. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$50 on each count, a total fine of \$100.

**9346. Misbranding of fresh mushrooms. U. S. v. Super-Mushroom Corporation. Plea of guilty. Fine, \$200:** (F. D. C. No. 16550. Sample Nos. 50998-F, 51000-F.)

**INFORMATION FILED:** January 29, 1946, District of Delaware, against the Super-Mushroom Corporation, Wilmington, Del., trading at Hockessin, Del.

**PRODUCT:** On or about November 8, 1944, from the State of Delaware into the States of New Jersey and New York.

**LABEL, IN PART:** (Portion) "3 Lb. Net Mushrooms."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since a portion of the product bore no label containing a statement of the quantity of the contents; and the remainder of the product contained less than the labeled weight, 3 pounds net.

**DISPOSITION:** April 25, 1946. A plea of guilty having been entered on behalf of the defendant, a fine of \$200 was imposed.

**9347. Adulteration of canned mustard greens. U. S. v. 49 Cases of Canned Mustard Greens. Default decree of condemnation and destruction.** (F. D. C. No. 19075. Sample No. 30380-H.)

**LIBEL FILED:** February 12, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about January 29, 1946 by the Deck Brothers Produce Co., from Springfield, Mo.

**PRODUCT:** 49 cases, each containing 24 18-ounce cans, of mustard greens at Denver, Colo.



**LABEL, IN PART:** "Staff-O-Life Brand Mustard Greens Distributed by Canners Exchange, Inc., Springfield, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and aphids.

**DISPOSITION:** April 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9348. Adulteration of canned mustard greens. U. S. v. 48 Cases of Canned Mustard Greens. Default decree of condemnation and destruction.** (F. D. C. No. 18749. Sample No. 47023-H.)

**LIBEL FILED:** On or about January 2, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about June 28, 1945, by the Appleby-Young Canning Co., from Fayetteville, Ark.

**PRODUCT:** 48 cases, each containing 24 1-pound, 2-ounce cans, of mustard greens at Denver, Colo.

**LABEL, IN PART:** "Hiwasse Brand Mustard Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids and larvae.

**DISPOSITION:** February 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9349. Adulteration of canned turnip greens. U. S. v. 260 Cases of Canned Turnip Greens. Consent decree of condemnation and destruction.** (F. D. C. No. 18796. Sample No. 37831-H.)

**LIBEL FILED:** January 15, 1946, District of Oregon.

**ALLEGED SHIPMENT:** On or about August 11, 1945, by the Montgomery Canning Co., from Mission, Tex.

**PRODUCT:** 260 cases, each containing 6 1-pound, 2-ounce cans, of turnip greens at Portland, Oreg.

**LABEL, IN PART:** "Del-I-Pak Brand Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 18, 1946. The sole interveners having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9350. Misbranding of onions. U. S. v. Lee and Schnaidt. Plea of nolo contendere. Fine, \$100.** (F. D. C. No. 16609. Sample Nos. 29377-H, 29648-H.)

**LIBEL FILED:** December 12, 1945, Southern District of California, against Lee and Schnaidt, a partnership, Bakersfield, Calif.

**ALLEGED SHIPMENT:** On or about June 12, 1945, from the State of California into the States of Missouri and New Jersey.

**LABEL, IN PART:** "50 Lbs. Net Weight \* \* \* California Onions."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the bags contained less than 50 pounds net weight.

**DISPOSITION:** March 21, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$50 on each of the 2 counts.

Nos. 9351 to 9358 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality fell below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

**9351. Misbranding of canned peas. U. S. v. 810 Cases and 998 Cases of Canned Peas. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18871, 18928. Sample Nos. 18095-H, 19731-H.)

**LIBELS FILED:** January 29 and February 1, 1946, Northern District of Illinois and District of Minnesota.

**ALLEGED SHIPMENT:** On or about July 30 and December 17, 1945, by the Cambria Canning Corporation, from Fall River and Cambria, Wis.

**PRODUCT:** 810 cases of canned peas at Chicago, Ill., and 998 cases of the same product at Minneapolis, Minn. Each case contained 24 1-pound, 4-ounce cans.

**LABEL, IN PART:** "Barco Brand [or "Come Again Brand"] Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard.

**DISPOSITION:** March 1 and 28, 1946. The Cambria Canning Corporation and the Blair Packing Corporation, Fall River, Wis., claimants for the respective lots, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**9352. Misbranding of canned peas. U. S. v. 1,042 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18816. Sample Nos. 14115-H, 14130-H.)**

**LIBEL FILED:** January 8, 1946, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about July 16, 1945, by the E. G. Reece Canning Co., from Waldron, Ind.

**PRODUCT:** 1,042 cases, each containing 24 1-pound, 4-ounce cans, of peas at Nashville, Tenn.

**LABEL, IN PART:** "Gold Cord Early June Alaska Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** February 1, 1946. The E. G. Reece Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled as substandard, under the supervision of the Food and Drug Administration.

**9353. Misbranding of canned peas. U. S. v. 862 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18570. Sample No. 19622-H.)**

**LIBEL FILED:** December 13, 1945, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about September 18, 1945, from New Holstein, Wis., by A. T. Hipke and Sons, Inc.

**PRODUCT:** 862 cases, each containing 24 cans, of peas at Fort Dodge, Iowa.

**LABEL, IN PART:** "Little Boy Early June Peas Contents 1 Lb. 4 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard.

**DISPOSITION:** January 19, 1946. A. T. Hipke & Sons, Inc., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9354. Misbranding of canned peas. U. S. v. 648 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 19018. Sample No. 41824-H.)**

**LIBEL FILED:** January 30, 1946, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about August 25, 1945, by Stokely-Van Camp, Inc., from Lakeland, Minn.

**PRODUCT:** 648 cases, each containing 24 1-pound, 4-ounce cans, of peas at Norfolk, Va.

**LABEL, IN PART:** "Pearl Brand Selected Early June Peas \* \* \* Distributed By Eickhoff Farm Products Company \* \* \* Indianapolis, Ind."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** March 7, 1946. Stokely-Van Camp, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9355. Misbranding of canned peas. U. S. v. 289 Cases and 194 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 18779. Sample Nos. 19524-H, 19525-H.)**

**LIBEL FILED:** January 4, 1946, District of South Dakota.



**ALLEGED SHIPMENT:** On or about September 10, 1945, by the St. Cloud Canning Association, from St. Cloud, Minn.

**PRODUCT:** 483 cases, each containing 24 1-pound, 4-ounce cans, of peas at Aberdeen, S. Dak.

**LABEL, IN PART:** "Good Value [or "Happy Host"] Brand \* \* \* Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** February 5, 1946. The St. Cloud Canning Association having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9356. Misbranding of canned peas. U. S. v. 387 Cases of Canned Peas. Default decree of forfeiture. Product ordered delivered to the Red Cross. (F. D. C. No. 17911. Sample No. 18286-H.)**

**LIBEL FILED:** October 10, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about August 8, 1945, by the Cobb Canning Co., from Cobb, Wis.

**PRODUCT:** 387 cases, each containing 24 20-ounce cans, of peas at Des Moines, Iowa.

**LABEL, IN PART:** "Our Little Cook Brand \* \* \* Wisconsin Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard.

**DISPOSITION:** March 21, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered delivered to the Red Cross.

**9357. Misbranding of canned peas. U. S. v. 349 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18882. Sample No. 19436-H.)**

**LIBEL FILED:** January 19, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about August 24, 1945, by the Bloomer Farm Products Co., from Bloomer, Wis.

**PRODUCT:** 349 cases, each containing 24 20-ounce cans, of peas at Minneapolis, Minn.

**LABEL, IN PART:** "Distinctive Brand Early Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard.

**DISPOSITION:** April 3, 1946. The Bloomer Farm Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9358. Misbranding of canned peas. U. S. v. 223 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18857. Sample No. 19943-H.)**

**LIBEL FILED:** January 15, 1946, District of North Dakota.

**ALLEGED SHIPMENT:** On or about October 4, 1945, by the St. Cloud Products Association, from St. Cloud, Minn.

**PRODUCT:** 223 cases, each containing 24 1-pound, 4-ounce cans, of peas at Minot, N. Dak.

**LABEL, IN PART:** "Good Value Brand \* \* \* Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** February 4, 1946. The Winston and Newell Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Federal Security Agency.

**9359. Adulteration of green split peas. U. S. v. 53 Bags of Green Split Peas. Default decree of condemnation. Product ordered sold. (F. D. C. No. 18565. Sample No. 35316-H.)**

**LIBEL FILED:** December 12, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On December 12, 1944, from Lewiston, Idaho.

**PRODUCT:** 53 25-pound bags of green split peas at St. Louis, Mo., in the possession of the Southern Terminal Warehouse Company. Examination showed that the product had been stored under insanitary conditions after shipment. Some bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained urine and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of safeguards to insure that it would not be disposed of for human consumption.

**9360. Adulteration of potato chips. U. S. v. 147 Dozen Bags and 26 Boxes of Potato Chips. Default decrees of condemnation and destruction. (F. D. C. Nos. 18899, 18900. Sample Nos. 19535-H, 19540-H.)**

**LIBELS FILED:** January 26 and 30, 1946, Northern District of Iowa and Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about December 28 and 29, 1945, and January 2 and 3, 1946, by the Red Dot Foods, from St. Paul, Minn.

**PRODUCT:** 147 dozen bags and 26 boxes, each box containing 10 dozen packages, of potato chips at Waterloo, Iowa, and La Crosse, Wis. Examination showed that the Iowa lot contained rodent hairs and insect fragments, and that the Wisconsin lot was prepared from decomposed potatoes.

**LABEL, IN PART:** (Bags) "Red Dot Potato Chips Net Wt. 1- $\frac{3}{4}$  Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 28 and March 27, 1946. No claimant having appeared for either lot, judgments of condemnation were entered and the product was ordered destroyed.

**9361. Misbranding of potatoes. U. S. v. William F. Dunn (W. F. Dunn Potato Co.) and Claude H. Long. Pleas of nolo contendere. Fine, \$150 against each defendant. (F. D. C. No. 17834. Sample No. 26485-H.)**

**INFORMATION FILED:** February 26, 1946, District of Colorado, against William F. Dunn, trading as the W. F. Dunn Potato Co., Denver, Colo., and Claude H. Long, manager of the company.

**ALLEGED SHIPMENT:** On or about April 17, 1945, from the State of Colorado into the State of Arkansas.

**LABEL, IN PART:** "100 Lbs. Net Colorado Potatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents since the bags contained less than 100 pounds, the declared weight.

**DISPOSITION:** February 28, 1946. Pleas of nolo contendere having been entered, the court imposed a fine of \$150 against each defendant.

**9362. Misbranding of relish. U. S. v. Harry Taylor (Taylor Packing Company). Plea of guilty. Fine, \$250. (F. D. C. No. 16577. Sample Nos. 9517-H, 13803-H.)**

**INFORMATION FILED:** October 29, 1945, Western District of New York, against Harry Taylor, trading as the Taylor Packing Co., Elmira, N. Y.

**ALLEGED SHIPMENT:** On or about November 7 and 22, 1944, from the State of New York into the State of Pennsylvania.

**LABEL, IN PART:** "Taylor's 'Tasty Kind' Sweet India Relish," or "Taylor's Hot Dog Relish."

**NATURE OF CHARGE:** Misbranding, Section 403 (k), the product contained a chemical preservative, sodium benzoate, and it failed to bear labeling stating that fact.



**DISPOSITION:** January 8, 1946. A plea of guilty having been entered, the defendant was fined \$250.

**9363. Adulteration and misbranding of sauerkraut. U. S. v. 37 Cases of Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 19014. Sample No. 5036-H.)

**LIBEL FILED:** January 28, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 11, 1945, from Brooklyn, N. Y., by the Hungarian Pickle Products Co.

**PRODUCT:** 37 cases, each containing 12 jars, of sauerkraut at Norristown, Pa. The jars contained an average of 24.17 ounces avoirdupois of drained kraut. Jars of this size should contain a minimum of 28 ounces avoirdupois of drained kraut.

**LABEL, IN PART:** (Jar) "L and B Quality Sauerkraut \* \* \* Contents 36 Fl. Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut.

Misbranding, Section 403 (d), the container was so filled as to be misleading; and, Section 403 (k), the article contained a chemical preservative, sulfur dioxide, and it failed to bear labeling stating that fact.

**DISPOSITION:** March 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9364. Adulteration and misbranding of sauerkraut. U. S. v. 148 Cases of Sauerkraut. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 19053. Sample No. 47069-H.)

**LIBEL FILED:** February 5, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about January 7, 1946, by the Peer Food Products Co., from Chicago, Ill.

**PRODUCT:** 148 cases, each containing 12 1-quart jars, of sauerkraut at Denver, Colo. The jars contained an average of 16.37 ounces avoirdupois of drained kraut. Jars of this size should contain a minimum of 25 ounces avoirdupois of drained kraut. Because of the tendency of sauerkraut to disperse in the liquid packing medium, the jars appeared to contain more sauerkraut than was actually the case.

**LABEL, IN PART:** "Peer Brand Bulk Style Sauerkraut 1 Fluid Quart."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut, which the article was represented to be.

Misbranding, Section 403 (d), the container of the article was so filled as to be misleading.

**DISPOSITION:** April 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9365. Adulteration of spinach. U. S. v. 886 Cases of Spinach. Decree of condemnation. Product ordered denatured for use as hog feed.** (F. D. C. No. 17891. Sample No. 41702-H.)

**LIBEL FILED:** On or about October 16, 1945, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about April 24, 1945, by the G. W. Hume Co., Turlock, Calif.

**PRODUCT:** 886 cases, each containing 6 cans, of spinach at Charleston, W. Va.

**LABEL, IN PART:** "Hume Brand Spinach Net Weight 6 Lbs. 2 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and aphids.

**DISPOSITION:** January 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered denatured so that it would not be used for human consumption. After being denatured, the product was to be used for hog feed.

**9366. Adulteration of canned spinach. U. S. v. 1,485 Cases of Canned Spinach. Consent decree of condemnation and destruction.** (F. D. C. No. 16986. Sample No. 17976-H.)

**LIBEL FILED:** August 13, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 1, 1945, by the Stilwell Canning Co., from Stilwell, Okla.

**PRODUCT:** 1,485 cases, each containing 6 6-pound, 2-ounce cans, of spinach at Chicago, Ill.

**LABEL, IN PART:** "Keep 'Em Flying! \* \* \* Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of sand.

**DISPOSITION:** October 8, 1945. The shipper having filed an answer denying the allegations of the libel and asking for its dismissal, by agreement between counsel the case was ordered removed and transferred from the Northern District of Illinois to the Eastern District of Oklahoma. On November 7, 1945, on motion of the United States attorney for the Northern District of Illinois, the court in that district vacated the order of removal and directed that the case be returned. On March 26, 1945, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

#### TOMATOES AND TOMATO PRODUCTS\*

**9367. Adulteration of tomato juice. U. S. v. 300 Cases of Tomato Juice. Default decree of condemnation and destruction. (F. D. C. No. 18818. Sample No. 15921-H.)**

**LIBEL FILED:** January 11, 1946, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about October 23, 1945, by the Denbo Packing Co., from Chicago, Ill.

**PRODUCT:** 300 cases, each containing 12 46-ounce cans, of tomato juice at Roanoke, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9368. Adulteration of tomato juice and tomato puree. U. S. v. 1,873 Cases of Tomato Juice and 496 Cases of Tomato Puree. Decrees of destruction. (F. D. C. Nos. 18688, 18855. Sample Nos. 29517-H, 46618-H.)**

**LIBELS FILED:** December 20, 1945, and January 17, 1946, Eastern District of Pennsylvania and District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 15 and December 26, 1945, by the Hollister Canning Co., from Hollister, Calif.

**PRODUCT:** 1,873 cases, each containing 24 1-pint, 2-fluid ounce cans, of tomato juice at Philadelphia, Pa., and 496 cases, each containing 6 6½-pound cans, of tomato puree at St. Paul, Minn.

**LABEL, IN PART:** "Hollister Brand California Tomato Juice," or "Felice Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances by reason of the presence of decomposed tomato material.

**DISPOSITION:** On March 19, 1946, the sole intervener having withdrawn its claim for the tomato juice, judgment of condemnation was entered and the product was ordered destroyed. On April 5, 1946, no claimant having appeared for the tomato puree, judgment was entered ordering the product destroyed unless converted into, and disposed of as, animal feed, under the supervision of the Food and Drug Administration.

**9369. Adulteration of tomato puree. U. S. v. 48 Cases and 1,038 Cases of Tomato Puree. Decrees of condemnation. Product ordered destroyed. (F. D. C. Nos. 18720, 18948. Sample Nos. 8334-H, 39416-H.)**

**LIBELS FILED:** January 4 and 8, 1946, Northern District of Illinois and Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 25 and October 17, 1945, by Walter English, from Columbus, Ohio, and Morgantown, Ind.

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\*See also Nos. 9337, 9392.



**PRODUCT:** 48 cases, each containing 6 6-pound, 9-ounce cans, of tomato puree at Chicago, Ill., and 1,038 cases, each containing 6 6-pound, 10-ounce cans, of tomato puree at New York, N. Y.

**LABEL, IN PART:** (Portion) "Walter English Brand Tomato of Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** January 30 and April 23, 1946. No claimant having appeared for the New York lot, and the claimant for the Chicago lot having consented to the entry of a decree, judgments of condemnation were entered and the product was ordered destroyed.

**9370. Adulteration of tomato puree. U. S. v. 150 Cases of Canned Tomato Puree. Default decree of condemnation and destruction. (F. D. C. No. 18893. Sample No. 46772-H.)**

**LIBEL FILED:** January 25, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about December 5, 1945, by the Escalon Packers, Inc., from Escalon, Calif.

**PRODUCT:** 150 cases, each containing 6 6-pound, 11-ounce cans, of tomato puree at Alameda, Calif.

**LABEL, IN PART:** "Deerwood Tomato Puree \* \* \* Distributed By United Buyers Corporation Chicago San Francisco."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9371. Adulteration of tomato puree. U. S. v. 92 Cases of Tomato Puree. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 19067. Sample No. 16066-H.)**

**LIBEL FILED:** February 1, 1946, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about November 1, 1945, by the Mays Packing Co., from Mays, Ind.

**PRODUCT:** 92 cases, each containing 6 cans, of tomato puree at Detroit, Mich.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 13, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as animal feed.

## NUTS AND NUT PRODUCTS

**9372. Adulteration of shelled almonds. U. S. v. 511 Bags of Shelled Almonds. Tried to the court. Portion of product ordered released; remainder condemned and ordered released under bond. (F. D. C. No. 19005. Sample No. 1806-H.)**

**LIBEL FILED:** On or about January 24, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about October 15, 1945, from Sacramento, Calif.

**PRODUCT:** 511 100-pound bags of shelled almonds at Atlanta, Ga., in the possession of the Atlantic Co. Cold Storage Plant No. 1. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and examination showed that the product contained rodent hairs and rodent-gnawed almonds.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** On February 18, 1946, the McPhail Chocolates Corporation, Atlanta, Ga., claimant, having filed an answer alleging that each bag of the product was a separate article of food, and that only a few of the bags had holes in them, the case came on for trial before the court. On February 19, 1946, prior to the conclusion of the trial, a decree of condemnation was entered against the damaged portion of the product, which portion was ordered released under bond to be brought into compliance with the law, or destroyed,

under the supervision of the Federal Security Agency. The remainder, found to be undamaged, was ordered released to the claimant.

**9373. Adulteration of shelled almonds. U. S. v. 5 Boxes of Shelled Almonds. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18760. Sample No. 21947-H.)**

**LIBEL FILED:** January 17, 1946, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about August 22, 1945, by the William A. Higgins Co., from New York, N. Y.

**PRODUCT:** 5 boxes, each containing 28 pounds, of shelled almonds at Memphis, Tenn.

**LABEL, IN PART:** "Sweet Marcona Shelled Almonds."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect-eaten pieces.

**DISPOSITION:** January 22, 1946. The National Peanut Corporation, Wilkes-Barre, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9374. Adulteration of Jordan almonds and shelled almonds. U. S. v. 40 Cases of Jordan Almonds and 5 Bags of Shelled Almonds. Decrees of condemnation. Jordan almonds ordered released under bond; shelled almonds ordered destroyed. (F. D. C. Nos. 18738, 18770. Sample Nos. 24578-H, 35149-H.)**

**LIBELS FILED:** December 26, 1945, and January 2, 1946, Eastern Districts of Missouri and Louisiana.

**ALLEGED SHIPMENT:** On or about September 13 and November 29, 1945, by T. M. Duche and Sons, Inc., from New York, N. Y., and Philadelphia, Pa., respectively.

**PRODUCT:** 40 28-pound cases of Jordan almonds at St. Louis, Mo., and 5 110-pound bags of shelled almonds at New Orleans, La. Examination showed that both products contained larvae and insect excreta, and that, in addition, the Jordan almonds contained insect fragments and the shelled almonds contained weevils.

**LABEL, IN PART:** "Product of Spain Bear Brand \* \* \* Superior Selected Jordan Almonds," or "T M D S Miolo Corrente Product of Portugal Packed by Nunes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances.

**DISPOSITION:** January 15, 1946. The E. Guckenheim Bakers Supply Co., St. Louis, Mo., claimant for the lot of Jordan almonds, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. On February 15, 1946, no claimant having appeared for the lot of shelled almonds, judgment of condemnation was entered and the product was ordered destroyed.

**9375. Adulteration of sugar-toasted peanuts. U. S. v. 100 Cartons of Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 18684. Sample Nos. 4596-H, 4597-H.)**

**LIBEL FILED:** December 17, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 17 and 25, 1945, by the Jefferson Candy Co., Bridgeton, N. J.

**PRODUCT:** 100 cartons, each containing 80 packages, of sugar-toasted peanuts at Philadelphia, Pa.

**LABEL, IN PART:** (Package) "ABC Sugar Toasted Peanuts Net Weight 1½ Oz. 5¢ Ingredients: Peanuts Sugar & Flavoring."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (d), the article was confectionery, and it contained a nonnutritive substance, mineral oil.



**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9376. Adulteration of peanuts. U. S. v. 14 Bags of Peanuts. Default decree ordering product disposed of for animal feed.** (F. D. C. No. 18862. Sample No. 47434-H.)

**LIBEL FILED:** January 16, 1946, District of Utah.

**ALLEGED SHIPMENT:** On or about May 11, 1945, from Dallas, Tex.

**PRODUCT:** 14 120-pound bags of peanuts at Salt Lake City, Utah, in the possession of the W. H. Bintz Co. The product was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been stored under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 1, 1946. No claimant having appeared, judgment was entered finding the product adulterated as alleged and ordering that it be fed to animals, under the custody or direction of the United States marshal.

**9377. Adulteration of peanuts. U. S. v. 13 Bags and 15 Bags of Peanuts. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18743, 18759. Sample Nos. 12959-H, 14047-H, 21945-H, 21946-H.)

**LIBELS FILED:** December 28, 1945, and January 17, 1946, Southern District of Ohio and Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of September 7 and November 6, 1945, by the National Peanut Corporation, Suffolk, Va.

**PRODUCT:** 13 100-pound bags and 15 115-pound bags of peanuts at Dayton, Ohio, and Memphis, Tenn., respectively.

**LABEL, IN PART:** "Planters Royal Brand Peanuts," or "Extra Large Virginia Shelled Peanuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect-eaten pieces.

**DISPOSITION:** January 7 and 22, 1946. The National Peanut Corporation, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9378. Adulteration of peanuts. U. S. v. 1 Barrel and 3 Bags of Peanuts. Decree of condemnation. Product ordered delivered to a public institution, for use as animal feed.** (F. D. C. No. 18945. Sample No. 1331-H.)

**LIBEL FILED:** January 9, 1946, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about September 7, 1945, by the Donalsonville Grain and Elevator Co., from Donalsonville, Ga.

**PRODUCT:** 1 400-pound barrel and 3 bags of Spanish peanuts at Jacksonville, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-eaten peanuts, webbing, insect excreta, and decomposed peanuts.

**DISPOSITION:** March 15, 1946. The Crystal Candy Co., claimant, having withdrawn its answer to the libel, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.

**9379. Adulteration of shelled peanuts. U. S. v. 26 Bags of Shelled Peanuts. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 18745. Sample No. 27881-H.)

**LIBEL FILED:** December 28, 1945, District of Montana.

**ALLEGED SHIPMENT:** On or about August 30, 1944, by the King Peanut Co., from Abilene, Tex.

**PRODUCT:** 26 124-pound bags of shelled peanuts at Butte, Mont.

**LABEL, IN PART:** "King Quality No. 1 Hand Picked Shelled Spanish Peanuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, and insect excreta.



**DISPOSITION:** February 8, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution to be denatured for use as hog feed.

**9380. Misbranding of candy-coated peanuts. U. S. v. 288 Boxes and 336 Boxes of Candy-coated Peanuts. Decree ordering release of the product under bond.** (F. D. C. No. 18739. Sample Nos. 37946-H, 37947-H.)

**LIBEL FILED:** January 8, 1946, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about November 5 and 13, 1945, by the Snax Products Co., from Los Angeles, Calif.

**PRODUCT:** 288 boxes and 336 boxes, each containing 12 cellophane bags, of candy-coated peanuts at Spokane, Wash. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Candy-Coated Peanuts 10¢ Wt. 2 Ozs.," or "Snax Boston Beans Candy Coated Peanuts Net Weight 2 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 15, 1946. A. Provisor, owner of the Snax Products Co., claimant, having admitted the allegations of the libel, judgment was entered ordering the release of the product under bond, conditioned that the packages of peanuts be broken open, and that the contents be sold in bulk, or repacked, under the supervision of the Food and Drug Administration.

**9381. Adulteration of chocolate-coated peanuts. U. S. v. 5 Cartons of Chocolate Coated Peanuts (and 1 other seizure action against chocolate-coated peanuts). Default decrees of condemnation and destruction.** (F. D. C. Nos. 19016, 19093. Sample Nos. 8296-H, 12320-H, 12754-H.)

**LIBELS FILED:** January 28 and February 6, 1946, District of Massachusetts and Northern District of New York.

**ALLEGED SHIPMENT:** On or about October 13 and December 11, 1945, by the Toledo Candy Co., from Toledo, Ohio.

**PRODUCT:** 5 30-pound cartons of chocolate-dipped peanuts at Binghamton, N. Y., and 18 30-pound boxes of the same product at Worcester, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs in the New York lot and rodent hairs, larvae, and insect fragments in the Worcester lot.

**DISPOSITION:** March 6 and 25, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9382. Misbranding of shelled pecans. U. S. v. Southland Pecan Co. Plea of nolo contendere. Fine, \$1,500.** (F. D. C. No. 17772. Sample Nos. 63959-F, 606-H, 5921-H, 5923-H, 12921-H.)

**INFORMATION FILED:** January 25, 1946, Middle District of Georgia, against the Southland Pecan Co., a corporation, Columbus, Ga.

**ALLEGED SHIPMENT:** Between the approximate dates of December 12 and 30, 1944, from the State of Georgia into the States of South Carolina, New York, Indiana, and Florida.

**LABEL, IN PART:** "Gold Medal Pecans Net Wt 1/12 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the bags contained less than the declared weight.

**DISPOSITION:** February 7, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$300 on each of 5 counts, a total fine of \$1,500.

**9383. Adulteration of pecans. U. S. v. 3 Bags of Pecans. Default decree of condemnation. Product ordered destroyed or delivered to a charitable institution.** (F. D. C. No. 18854. Sample No. 14459-H.)

**LIBEL FILED:** January 15, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 8, 1945, by the Southeastern Pecan Co., from Waycross, Ga.

**PRODUCT:** 3 bags, each containing 30 3-pound packages, of pecans at Cleveland, Ohio.

**LABEL, IN PART:** "Sears Roebuck & Co. Fancy Georgia Pecans."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance, and it was otherwise unfit for food by reason of the presence of decomposed and shriveled pecans.

**DISPOSITION:** February 13, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a charitable institution.

**9384. Adulteration of pecans. U. S. v. 4 Boxes of Pecans. Default decree of condemnation. Product ordered destroyed or delivered to a charitable institution. (F. D. C. No. 18849. Sample No. 14460-H.)**

**LIBEL FILED:** January 15, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 13, 1945, by the Georgia Pecan Sales Co., from Albany, Ga.

**PRODUCT:** 4 50-pound boxes of pecans at Cleveland, Ohio.

**LABEL, IN PART:** "Supreme Brand Paper Shell Pecans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and decomposed pecans, and it was otherwise unfit for food by reason of the presence of shriveled pecans.

**DISPOSITION:** February 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a charitable institution.

**9385. Adulteration of pine nuts. U. S. v. 104 Bags of Pine Nuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18769. Sample Nos. 30047-H, 30048-H.)**

**LIBEL FILED:** January 25, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 21 and 30, 1945, by the Lorenzo Hubbell Co., from Winslow, Ariz.

**PRODUCT:** 104 bags of pine nuts at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of animal excreta.

**DISPOSITION:** March 13, 1946. The Lorenzo Hubbell Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**9386. Adulteration of walnut meats. U. S. v. 200 Cases of Walnut Meats. Default decree of condemnation and destruction. (F. D. C. No. 16450. Sample Nos. 30858-H, 30859-H.)**

**LIBEL FILED:** June 21, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about May-22, 1945, by the Consolidated Nut Co., from Los Angeles, Calif.

**PRODUCT:** 200 cases of walnut meats at Seattle, Wash.

**LABEL, IN PART:** (Portion) "Golden Bear."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and moldy nuts.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9387. Adulteration of walnut meats. U. S. v. 129 Cases of Walnut Meats. Default decree of condemnation and destruction. (F. D. C. No. 18771. Sample No. 52420-H.)**

**LIBEL FILED:** January 4, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 13 and 23, 1945, by Gordon Donohue and Co., Detroit, Mich.

**PRODUCT:** 129 cases, each containing 12 6-ounce baskets, of walnut meats at Toledo, Ohio.

**LABEL, IN PART:** "Sweet Heart Brand Nutmeats."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rancid nut meats.

**DISPOSITION:** January 31, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### SPICES, FLAVORS, AND SEASONING MATERIALS

**9388. Adulteration of caraway seed. U. S. v. 1 Bag of Caraway Seed. Default decree of condemnation and destruction. (F. D. C. No. 18877. Sample No. 23539-H.)**

**LIBEL FILED:** January 21, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about January 11, 1943, by the Red Line Commercial Co., Inc., from New York, N. Y.

**PRODUCT:** 1 665-pound bag of caraway seed at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, cast skins, and insect fragments.

**DISPOSITION:** February 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9389. Adulteration and misbranding of lemon extract. U. S. v. 49 Bottles of Lemon Extract. Default decree of condemnation and destruction. (F. D. C. No. 18926. Sample No. 12844-H.)**

**LIBEL FILED:** February 4, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 14, 1945, by Charles P. Wagner and Brother, from New Orleans, La.

**PRODUCT:** 4 1-gallon bottles, 10 1-quart bottles, 11 1-pint bottles, and 24 ½-pint bottles of lemon extract at Cincinnati, Ohio.

**LABEL, IN PART:** "Wagner's Quality Super-Arome True Lemon Extract Contains Pure Lemon Oil, Alcohol, Certified Food Color."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially colored mixture of water and glycerin, containing an insignificant amount, if any, of lemon oil, had been substituted in whole or in part for true lemon extract.

Misbranding, Section 403 (a), the label statement, "Super-Arome True Lemon Extract Contains Pure Lemon Oil, Alcohol, Certified Food Color," was false and misleading.

**DISPOSITION:** March 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9390. Adulteration and misbranding of black pepper. U. S. v. 7 Gross Envelopes of Black Pepper. Default decree of condemnation and destruction. (F. D. C. No. 18784. Sample No. 19620-H.)**

**LIBEL FILED:** January 8, 1946, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about September 24, 1945, by the Banner Novelty Co., from Chicago, Ill.

**PRODUCT:** 7 gross of 1-ounce envelopes of black pepper at Fort Dodge, Iowa.

**LABEL, IN PART:** "I. & R. Brand \* \* \* Pure Black Pepper."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance consisting essentially of ground buckwheat hulls, wheat flour, and cottonseed hulls, with small amounts of red and black pepper, had been substituted in whole or in part for black pepper.

Misbranding, Section 403 (a), the designation "Pure Black Pepper" was false and misleading.

**DISPOSITION:** March 1, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9391. Adulteration of dried red peppers. U. S. v. 429 Bags of Dried Red Peppers. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18864. Sample No. 22090-H.)**

**LIBEL FILED:** January 16, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 21, 1945, by the Pee Dee Pepper Growers, Inc., from Pamplico, S. C.

**PRODUCT:** 429 bags, each containing approximately 70 pounds, of dried red peppers at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy peppers.



**DISPOSITION:** February 20, 1946. The James H. Forbes Tea and Coffee Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9392. Adulteration of sauces. U. S. v. 71 Cases, 90 Cases, and 29 Cases of Sauces (and 4 other seizure actions against sauces). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17058, 17923, 18053, 18848, 18911. Sample Nos. 1218-H, 18273-H, 18274-H, 31675-H, 37413-H, 37417-H, 50653-H.)

**LIBELS FILED:** September 20 and October 11 and 26, 1945, and January 15 and 25, 1946, Middle District of Georgia, Southern District of Iowa, Southern District of California, District of North Dakota, and Western District of Washington.

**ALLEGED SHIPMENT:** Between the approximate dates of October 30, 1944, and August 14, 1945, by the Del-Mar Co., Dallas, Tex.

**PRODUCT:** 473 cases, each containing 48 bottles, 241 cases, each containing 24 bottles, and 126 bottles of sauces in various lots at Des Moines, Iowa, San Diego, Calif., Columbus, Ga., Fargo, N. Dak., and Tacoma, Wash. Examination showed that the products were undergoing fermentation.

**LABEL, IN PART:** "Imperial Catsup Style Sauce \* \* \* 6 Fl. Oz.," or "Alamo Brand Sauce for Meat - Fish Fowl Contents 6 Fl. Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances.

**DISPOSITION:** November 29 and December 7 and 20, 1945, and February 21 and April 22, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

### MISCELLANEOUS FOODS

**9393. Adulteration of mincemeat. U. S. v. 41 Pails and 12 Barrels of Mince Meat. Default decree of condemnation and destruction.** (F. D. C. Nos. 17028, 17029. Sample Nos. 28871-H, 28873-H.)

**LIBEL FILED:** August 22, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about June 14, 1945, by the E-W Products Co., from San Francisco, Calif.

**PRODUCT:** 41 48-pound pails and 12 150-pound barrels of mincemeat at Seattle, Wash.

**LABEL, IN PART:** "E-W Brand Mince Meat."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent hairs and fermented mincemeat.

**DISPOSITION:** April 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9394. Misbranding of gelatin dessert. U. S. v. 19 Cases of Gelatin Dessert. Consent decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 19050. Sample No. 30370-H.)

**LIBEL FILED:** February 12, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about January 3, 1946, by the Emes Kosher Products Co., from Chicago, Ill.

**PRODUCT:** 19 cases, each containing 36 cartons, of gelatin dessert at Denver, Colo. Examination disclosed that the product was short-weight, and that the cartons were not properly filled.

**LABEL, IN PART:** (Carton) "Emes Kosher-Jel A Parave Gelatine Dessert Net Wt. 2¾ Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the article was so filled as to be misleading since the dessert occupied only about 55 percent of the volume of the carton; and, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 11, 1946. The shipper having authorized the taking of a decree, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES**

**9395. Adulteration of Liv-Fer-B. U. S. v. Sutliff and Case Co., Inc. Plea of nolo contendere. Fine, \$100 and costs. (F. D. C. No. 16535. Sample No. 72386-F.)**

**INFORMATION FILED:** August 11, 1945, Southern District of Illinois, against the Sutliff and Case Co., Inc., Peoria, Ill.

**ALLEGED SHIPMENT:** On or about July 13, 1944, from the State of Illinois into the State of Missouri.

**LABEL, IN PART:** "Liv-Fer-B Compound \* \* \* Each fluidounce represents:  
\* \* \* Thiamin Chloride (Vitamin B<sub>1</sub>) . . . 1 mg."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub> (thiamine chloride), had been in part omitted or abstracted from the article since it purported and was represented to contain 1 milligram of vitamin B<sub>1</sub> per fluid ounce, whereas it actually contained not more than 0.50 milligram.

The article was also alleged to be adulterated under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1815.

**DISPOSITION:** September 27, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100, plus costs.

**9396. Misbranding of Slendret. U. S. v. American Medicinal Products, Inc., and Ernest G. Rurup. Pleas of nolo contendere. Corporation and individual each fined \$1. (F. D. C. No. 12528. Sample No. 41446-H.)**

**INFORMATION FILED:** October 2, 1944, Southern District of California, against the American Medicinal Products, Inc., Los Angeles, Calif., and Ernest G. Rurup, general manager.

**ALLEGED SHIPMENT:** On or about February 4, 1944, from the State of California into the State of Texas.

**PRODUCT:** Analysis showed that the product consisted essentially of dextrose with a small amount of starch, flavored with wintergreen.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the name "Slendret" on the box label and in an accompanying circular entitled "Slendret Food Method and Regime" was misleading since it represented and suggested that the product would cause the user to become slender and would cause a reduction in the body weight of the user. Further misbranding, Section 403 (a), the name "Slendret" on the box label and certain statements in the accompanying circular were false and misleading since they represented and suggested that the product, because of its composition and characteristics, would be of substantial value in reducing body weight; that it would aid the user to become slender; that it would provide food energy; and that it contained the nutritional factors necessary during reducing to maintain energy and strength and to relieve hunger. The product would not accomplish the results so represented and suggested, and it would provide no nutritional factor other than carbohydrates.

Further misbranding, Section 403 (i), the label did not bear the common or usual name of the food, dextrose.

The information also charged the defendants with giving a false guaranty with respect to, and the shipment in interstate commerce of, Re-Sude-Oids, a misbranded drug, as reported in notices of judgment on drugs and devices, No. 1801.

**DISPOSITION:** May 14, 1945. Pleas of nolo contendere having been entered on behalf of the defendants, each defendant was fined \$1 on the count charging the shipment of "Slendret." The court also imposed a fine of \$251 against the corporation on the counts relating to the misbranded drug, and fined the individual defendant \$2 on the same counts.

**9397. Adulteration and misbranding of Arvimin Formula. U. S. v. 152 Jars of Arvimin Formula. Default decree of condemnation and destruction. (F. D. C. No. 17084. Sample No. 4615-H.)**

**LIBEL FILED:** On or about August 9, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 12, 1945, by the Argyle Laboratories, from New York, N. Y.

**PRODUCT:** 152 12-ounce jars of Arvimin Formula at Atlantic City, N. J.

**LABEL, IN PART:** "Arvimin Formula 9 Vitamins 12 Minerals."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin C, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label statements, "Vitamin C (Ascorbic Acid) 40 Mgms, Percentage of daily Requirements 133% \* \* \* Two heaping tablespoonsful will provide \* \* \*  $1\frac{1}{3}$  times (the minimum daily requirements of) Vitamin C," were false and misleading since the article contained less than the stated amount of vitamin C, and it would provide less than the stated proportion of the minimum daily requirements for vitamin C.

**DISPOSITION:** October 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9398. Adulteration and misbranding of Super Multi-Caps (vitamin tablets). U. S. v. 3,453 Bottles of Super Multi-Caps. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17075. Sample Nos. 14803-H, 16557-H to 16559-H, incl.)**

**LIBEL FILED:** August 24, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 10, 1945, by the Eljay Corporation, from Chicago, Ill.

**PRODUCT:** 1,202 100-tabsule bottles, 331 250-tabsule bottles, 1,037 50-tabsule bottles, and 883 25-tabsule bottles of Super Multi-Caps at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), the following valuable constituents had been in whole or in part omitted from the article: Vitamins A and D from the 100-tabsule size; vitamin A from the 250-tabsule and 50-tabsule sizes; and vitamin D from the 25-tabsule size.

Misbranding, Section 403 (a), the following label statements were false and misleading: "Each Tabsule Contains Vitamin A 5000 U. S. P. Units, Vitamin D 800 U. S. P. Units \* \* \* Minimum Daily Requirements as provided in each Super Multi-Caps Tabsule Vitamin A  $1\frac{1}{4}$  Times, Vitamin D 2 Times." The article did not contain the stated amounts of vitamins, and it did not provide, in the 100-tabsule size, the stated proportion of the minimum daily requirements for vitamins A and D and, in the 250-tabsule and 50-tabsule sizes, the stated proportion of the minimum daily requirements for vitamin A.

Further misbranding, Section 403 (j), the article in the 25-tabsule size purported to be and was represented as a food for special dietary uses by reason of its vitamin A, B<sub>1</sub>, C, D, B<sub>2</sub>, B<sub>6</sub>, E, calcium pantothenate, and niacinamide content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for vitamins A, B<sub>1</sub>, C, D, and B<sub>2</sub>, and the amounts of vitamins B<sub>6</sub>, E, calcium pantothenate, and niacinamide furnished by a specified quantity of the product when consumed during a period of 1 day; and the label also failed to bear the required statement that the need for vitamins B<sub>6</sub>, E, and calcium pantothenate in human nutrition has not been established.

**DISPOSITION:** March 12, 1946. The Oxford Products, Inc., Cleveland, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling, or disposal in bulk, under the supervision of the Food and Drug Administration.

**9399. Adulteration and misbranding of vitamin tablets. U. S. v. 237 Bottles of Vitamin Tablets. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18426. Sample No. 7343-H.)**

**LIBEL FILED:** November 23, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about July 31, 1945, by Vitamins for Industry, from Los Angeles, Calif.

**PRODUCT:** 237 bottles of vitamin tablets at Perth Amboy, N. J. Examination showed that the product was 20 percent deficient in vitamin B<sub>1</sub>.

**LABEL, IN PART:** "Aircraft Brand High Potency Diet-Enricher Vitamins."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted. Misbranding, Section 403 (a), the label statements, "Each Tablet Contains \* \* \* Vitamin B<sub>1</sub> Thiamin Hydrochloride 3 Mg. 1000 U. S. P. % Min. Adult Daily Need 300%," were false and misleading since the product contained less than the stated amount of vitamin B<sub>1</sub>, and it did not provide the stated proportion of the minimum daily requirement for such vitamin.

DISPOSITION: March 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution after the destruction of the labels, under the supervision of the Food and Drug Administration.

9400. Misbranding of Kaldak. U. S. v. 19 Cans and 22 Cans of Kaldak. Default decree of condemnation and destruction. (F. D. C. No. 18707. Sample No. 29580-H.)

LIBEL FILED: January 4, 1946, Northern District of California.

ALLEGED SHIPMENT: On or about October 12, 1945, by the Kaldak Co., from Lansing, Mich.

PRODUCT: 19 12-ounce cans and 22 5-ounce cans of Kaldak at San Francisco, Calif.

LABEL, IN PART: "Kaldak A Dietary Food Supplement Providing Natural Vitamin B Complex, Vitamin D, Iron, Calcium and Phosphorus."

NATURE OF CHARGE: Misbranding, Section 403 (a). Misbranding of the product was also charged under the provisions of the law applicable to drugs. See drugs and devices notice of judgment No. 1725 for the nature of the false and misleading claims in the labeling.

DISPOSITION: March 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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PRODUCTS

	N. J. No.		N. J. No.
Aircraft Brand Vitamins-----	9399	Cocoa beans-----	9283
Almonds-----	<sup>1</sup> 9372-9374	Coffee sweepings-----	9201
Apples, frozen-----	9328	Corn, canned-----	9344
slices-----	9329	flour, self-rising-----	9236
Apricots, canned-----	9313, 9314	meal-----	9222-9224, 9231
glace-----	9333	Crackers, graham-----	9209
Arvimin Formula-----	9397	soda-----	9220
Bakery products-----	9204-9221	Cream-----	9294
Barley-----	9231	meal. See Corn meal.	
Beans, green, frozen-----	9338	Dairy products-----	<sup>3</sup> 9284-9295
lima, frozen-----	9339	Dates, dried-----	9319, 9320
pinto, canned-----	9340	fresh-----	9326
red, honey-flavored, canned----	9341	Durum flour-----	9237
soy, in bags-----	9342	Eggs, frozen-----	9296-9300
with tomato sauce, canned----	9337	Fish and shellfish-----	9301-9312
Beverages and beverage materials		Flavors. See Spices, flavors, and	
9201-9203, 9367, 9368		seasoning materials.	
Bread-----	9204-9208	Flour-----	9225-9245
Brewer's grits-----	9250	enriched-----	9244, 9245
Buckwheat flour, self-rising-----	9236	Fruits and vegetables--	9202, 9203, 9248,
Butter-----	9284-9287	9290, 9313-9371	
Cakes and cookies-----	9209-9219	fruit(s), candied-----	9333-9335
Candy_ 9251, 9260-9274, 9375, 9380, 9381		canned-----	9313-9316
Caraway seed-----	9388	cocktail-----	9316
Carrots, diced, canned-----	9343	dried-----	9317-9325
Cereals and cereal products_ 9204-9259		and peels, diced-----	9317
Cheese-----	9248, <sup>2</sup> 9288-9292	fresh and frozen-----	9326-9329
cottage-----	9294	jelly and preserves-----	9330-9332
grated-----	9290	miscellaneous fruit products	9333-
Cherries, canned-----	9315		9336
dried-----	9318	sirups-----	9202, 9203
frozen-----	9327	stuffed-----	9325
Chocolate-----	9275-9278	tomatoes and tomato products_	9337,
coating-----	9279-9281		9367-9371, 9392
-covered peanuts-----	9381	vegetables-----	9248, 9290, 9337-9366
-flavored sirup-----	9282	Gelatin dessert-----	9394
		Graham crackers-----	9209

<sup>1</sup> (9372) Seizure contested.  
<sup>2</sup> (9288) Injunction issued.

<sup>3</sup> (9293) Prosecution contested.



	N. J. No.		N. J. No.
Greens, mustard, canned	9347, 9348	Potato(es)	9361
turnip	9349	chips	9360
Grits, brewer's	9250	Preserves. <i>See</i> Jelly and pre-	
Hake fillets, frozen	9301-9303	serves.	
Herring	9304	Prunes, dried	9321
Ice cream	9283, <sup>3</sup> 9293	Raisin(s)	9322
Jelly and preserves	9330-9332	pie filling	9336
Kaldak	9400	Raspberries, black, dried	9323, 9324
Lemon extract	9389	Relish	9362
Liv-Fer-B	9395	Rice flour	9241
Macaroni and noodle prod-		Rye flour	9232, 9242
ucts	9246-9249	Sardines, canned	9305-9307
Milk, fluid and condensed skim	9294	Sauces, for seasoning	9392
Mincemeat	9393	Sauerkraut	9363, 9364
Mushroom(s), fresh	9345, 9346	Self-rising flour	9234, 9243
sauce	9248	enriched	9244
Mustard greens, canned	9347, 9348	buckwheat	9236
Noodles	9246, 9249	corn	9236
Nuts and nut products	<sup>1</sup> 9372-9387	Shellfish. <i>See</i> Fish and Shellfish.	
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Oleomargarine	9295	Sirups, beverage	9202, 9203
Onions	9350	chocolate-flavored	9282
Orange concentrate	9202, 9203	Slendret	9396
Pancake flour	9238, 9239	Spaghetti. <i>See</i> Macaroni and	
Paraffin-wax soda cones and par-		noodle products.	
affin-wax filled bottles (con-		Spices, flavors, and seasoning	
fections)	9271	materials	9388-9392
Pastry flour	9233, 9235, 9240	Spinach, canned	9365, 9366
Peanuts	9375-9381	Squid, canned	9309
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chocolate-coated	9381	Superio Macaroni and Cheese	
sugar-toasted	9375	Dinner and Superio Italian	
Peas, canned	9351-9358	Spaghetti Dinner	9248
in bags, chick	9290	Tomato, juice	9367, 9368
green split	9359	puree	9368-9371
Pecans	9382-9384	sauce	9392
Pepper, black	9390	and beans	9337
Peppers, red, dried	9391	Tuna fish, canned	9310
Phosphated flour	9234	and grated	9311
enriched	9245	Turnip greens, canned	9349
Pie(s)	9221	Vitamin preparations and foods	
filling, raisin	9336	for special dietary uses	9395-9400
Pine nuts	9385	Walnut meats	9386, 9387
Piñon nuts. <i>See</i> Pine nuts.		Wheat, cereal	9259
Popcorn	9251-9257	crushed	9232
candied	9251	meal	9236
popped	9251, 9252	Whiting, frozen	9312
Popover mix	9258		

## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
Aaron, Edward, Co.:		Argyle Laboratories:	
frozen eggs	9298	Arvimin Formula	9397
American Lady Bakers:		Arizona Products Cannery Co.:	
bakery products	9210	canned pinto beans	9340
American Medicinal Products,		Armour & Co.:	
Inc.:		oleomargarine	9295
Slendret	9396	Atlantic Co. Cold Storage Plant	
American Warehouse:		No. 1:	
plain flour, rye flour, and		shelled almonds	<sup>1</sup> 9372
crushed wheat	9232	Atlas Bakeries, Inc.:	
Anchor Milling Co.:		cookies	9219
corn meal	9223	Baker, Walter, & Co., Inc.:	
Appleby-Young Canning Co.:		chocolate	9277
canned mustard greens	9348		

<sup>1</sup> (9372) Seizure contested.<sup>3</sup> (9293) Prosecution contested.

	N. J. No.		N. J. No.
Balfour, Guthrie & Co., Ltd.:		Curtiss Candy Co.:	
rice flour-----	9241	chocolate-----	9275
Banner Novelty Co.:		Davis, R. L.:	
black pepper-----	9390	bread-----	9206
Baron, H., & Co., Inc.:		Dayton, L. M.:	
fruits and peels, diced-----	9317	popcorn balls and candied pop-	
glazed-----	9335	corn-----	9251
Becker, Abe:		Deck Brothers Produce Co.:	
bread-----	9204	canned mustard greens-----	9347
Becker's Bakery:		Del-Mar Co.:	
flour-----	9228	sauc-----	9392
Becker's Bakery, Inc.:		Denbo Packing Co.:	
bread-----	9204	tomato juice-----	9367
Bentley, Henry:		Dixie Frosted Foods Co.:	
bread-----	9205	frozen green beans-----	9338
Berke Cake Co., Inc.:		Donalsonville Grain & Elevator	
fruit cake-----	9216	Co.:	
Big D Candy Co.:		peanuts-----	9378
candy-----	9268	Donohue, Gordon, & Co.:	
Bintz, W. H., Co.:		walnut meats-----	9387
peanuts-----	9376	Drechsel, Gus:	
Bizzari, Anthony:		bread-----	9207
macaroni products-----	9247	Drew Canning Co.:	
Blackinton & Son Canning Co.:		canned apricots-----	9313
canned cherries-----	9315	Duche, T. M., & Sons, Inc.:	
Bloomer Farm Products Co.:		Jordon almonds and shelled al-	
canned peas-----	9357	monds-----	9374
Borden Co.:		Dunn, W. F.:	
ice cream-----	<sup>s</sup> 9293	potatoes-----	9361
Brock Candy Co.:		Dunn, W. F., Potato Co. <i>See</i>	
candy-----	9263	Dunn, W. F.	
Brown, Elmer:		E-W Products Co.:	
ice cream-----	<sup>s</sup> 9293	mincemeat-----	9393
Buffalo Merchandise Warehouse:		Eddington Canning Co.:	
corn meal-----	9224	canned corn-----	9344
pancake flour-----	9238	Ehrlich, Mary:	
Butler, R. S.:		fresh dates-----	9326
dates-----	9319	Eickhoff Farm Products Co.:	
California Consumers Corp.:		canned peas-----	9354
frozen lima beans-----	9339	8 Bells Fillet Co.:	
Cambria Canning Corp.:		frozen hake fillets-----	9301
canned peas-----	9351	Eljay Corp.:	
Canners Exchange, Inc.:		Super Multi-Caps-----	9398
canned mustard greens-----	9347	Ellis, L. C.:	
Cape Cod Fillet Co.:		butter-----	9287
frozen hake fillets-----	9302	Emes Kosher Products Co.:	
Cataldo, Angelo:		gelatin dessert-----	9394
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Christian & Co., Inc.:		tomato puree-----	9369
frozen eggs-----	9300	Escalon Packers, Inc.:	
Cobb Canning Co.:		tomato puree-----	9370
canned peas-----	9356	Fantis, A., & Co.:	
Connell Brothers Co., Ltd.:		cheese-----	9291
canned squid-----	9309	Farmers' Rice Growers Co-Op.:	
Consolidated Nut Co.:		rice flour-----	9241
walnut meats-----	9386	Fashion Bakers:	
Corker & Winsor:		pastry flour-----	9240
frozen hake fillets-----	9301	Favorite Confection Co.:	
Cramer Products Co.:		candy-----	9271
popover mix-----	9258	Feld Bros., Inc.:	
Cudahy Packing Co.:		dried cherries-----	9318
butter-----	9287	Ferrara, C. A., Inc.:	
eggs, frozen-----	9299	candy-----	9274
		Festive Products:	
		candied fruit-----	9334

\* (9293) Prosecution contested.



	N. J. No.		N. J. No.
First National Stores, Inc.:		Hermes Importing Co.:	
flour-----	9227	grated cheese, oil, and chick	
Flavor Fresh Foods:		peas-----	9290
frozen lima beans-----	9339	Hershey Chocolate Corp.:	
Font, Gamundi & Co.:		chocolate coating-----	9279
bitter chocolate-----	9278	Hesmer, Clyde M., Inc.:	
Fort Morgan Mills, Inc.:		jelly-----	9330
flour-----	9225	Higgins, William A., Co.:	
Fowler, C. V.:		shelled almonds-----	9373
candy-----	9272	Hipke, A. T., & Sons, Inc.:	
Franco-Italian Packing Co.:		canned peas-----	9353
canned tuna fish-----	9310	Hollister Canning Co.:	
Friday Canning Corp.:		tomato juice and tomato puree--	9368
diced carrots-----	9343	Holmes, B. J.:	
Frink Creamery Co.:		frozen eggs-----	9296
dairy products-----	9294	Holmes, B. J., Sales Co. <i>See</i>	
Fruiterest Co.:		Holmes, B. J.	
raspberry preserves-----	9331	Hooton Chocolate Co.:	
Funsten Co.:		chocolate-----	9276
canned sardines-----	9306	Hovden Food Products Corp.:	
General Chemical Co.:		canned squid-----	9309
soda crackers-----	9220	Hubbell, Lorenzo, Co.:	
General Ice & Cold Storage Co.:		pine nuts-----	9385
frozen hake fillets-----	9302	Hudson Wholesale Grocery Co.:	
General Mills, Inc.:		flour, corn meal, and barley---	9231
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Georgia Pecan Sales Co.:		flour-----	9230
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Gertz Distributing Co.:		spinach-----	9365
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Goldstein, S. P.:		sauerkraut-----	9363
cookies-----	9219	Independent Food Products Co.,	
Gomperts, Jack & Co., Inc.:		Inc.:	
raisins-----	9322	frozen eggs-----	9297
Gottfried Baking Co., Inc.:		J & R Syrup Co.:	
fruit cake-----	9213	chocolate-flavored sirup-----	9282
Great Atlantic & Pacific Tea Co.:		Jay-Dee Candy Co.:	
canned sardines-----	9305	candy-----	9266, 9270
Great Valley Mills:		Jefferson Candy Co.:	
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buckwheat flour, and wheat		Kaldak Co.:	
meal-----	9236	Kaldak-----	9400
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Purity Bakeries Corp.		fruit cake-----	9214
Griggs, Cooper & Co.:		Kautz, C. H.:	
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pancake flour-----	9239	Kautz, M., Baking Co.:	
Halfhill Co.:		bread-----	9208
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Hall Baking Co.:		bread-----	9208
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Harrison's Orange Corp.:		shelled peanuts-----	9379
orange concentrate-----	9202	Kirkley, J. Ralph, Inc.:	
Harrison's Orange Products Co.:		candy-----	9261
orange concentrate-----	9202	Krause, Charles A., Milling Co.:	
Harrison's Orange Products,		corn meal-----	9223
Inc.:		Lake Superior Fish Co.:	
orange concentrate-----	9202	herring-----	9304
Hawthorne, Ruth, Candies:		Lakeview Dairies, Inc.:	
candy-----	9260	butter-----	9286
Hedison Bros. Confectionery Co.:		Lamb, F. G., & Co.:	
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	N. J. No.		N. J. No.
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La Premiata Macaroni Corp.:		Nunes:	
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macaroni and noodle products--	9249	monds-----	9374
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Lee & Schnaidt:		phosphated flour-----	9234
onions-----	9350	Otoe Food Products Co.:	
Leggett, Francis H., & Co.:		honey-flavored red beans-----	9341
canned tuna-----	9311	Otto, W. E., & Co.:	
Leon, S. I.:		dried black raspberries-----	9324
candy-----	9261	Pacific Coast Packing Co.:	
Liberty Chocolate Co. See Catal-		youngberry preserves-----	9332
do, Angelo.		Pacific Cracker Co.:	
Liberty Fig & Date Co.:		soda crackers-----	9220
stuffed fruit-----	9325	Pacific Storage, Warehouse & Dis-	
Lippman, Milton:		tributing Co.:	
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Long, C. H.:		pies-----	9221
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Luft, Emil:		pies-----	9221
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Manfredi, Rocco:		dried prunes-----	9321
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Martinez Food Cannery:		dried red peppers-----	9391
canned sardines-----	9305	Peer Food Products Co.:	
Martinez Food Cannery, Ltd.:		sauerkraut-----	9364
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Mays Packing Co.:		candy-----	9260
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Merchants Cold Storage Co.:		candy-----	9269
cheese-----	9292	Plettman's:	
Meridian Grain and Elevator Co.:		popcorn-----	9256
corn meal-----	9222	Price's Creameries, Inc.:	
Middleton & Co., Ltd.:		butter-----	9285
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Miller, H. B.:		frozen apple slices-----	9329
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Miller, Jacob and Rose:		flour-----	9226
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H. B.		Purity Baking Co.:	
Miller Food Products Co.:		bread-----	9206
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Miller's Groceteria Co.:		cookies-----	9219
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Montgomery Canning Co.:		canned apricots-----	9314
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Mueller, George:		frozen apples-----	9328
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National Biscuit Co.:		candy-----	9260
bakery products-----	9209	Red Dot Foods:	
National Peanut Corp.:		popcorn-----	9254
peanuts-----	9377	potato chips-----	9360
National Trucking & Storage Co.,		Red Line Commercial Co., Inc.:	
Inc.:		caraway seed-----	9388
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Nebraska Consolidated Mills Co.:		canned peas-----	9352
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Norfolk Packing Co.:		bread-----	9205
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		candy-----	9267

<sup>2</sup> (9288) Injunction issued.



	N. J. No.		N. J. No.
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Roll Biscuit Co.:		Spuds:	
fruit cakes-----	9215	popcorn-----	9252
Rosen Products, Inc.:		Standard Fisheries Co.:	
raspberry preserves-----	9331	frozen shrimp-----	9308
Royal Baking Co.:		Stilwell Canning Co.:	
bread-----	9207	canned spinach-----	9366
Runkle Co.:		Stokely-Van Camp, Inc.:	
cookies-----	9218	canned peas-----	9354
Rurup, E. G.:		Sun Harbor Packing Co.:	
Slendret-----	9396	canned and grated tuna-----	9311
Russell-Miller Milling Co.:		Super-Mushroom Corp.:	
rye flour and plain flour-----	9242	fresh mushrooms-----	9346
Ryan, J. J.:		Suprise, A. P.:	
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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,  
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

9401-9600

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *January 31, 1947.*

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CEREALS AND CEREAL PRODUCTS

CORN MEAL

**9401. Adulteration of corn meal. U. S. v. Aylor & Meyer Co. Plea of guilty. Fine, \$50.** (F. D. C. No. 19043. Sample Nos. 13321-H, 13324-H, 14246-H, 14248-H, 14249-H.)

**INFORMATION FILED:** April 18, 1946, Southern District of Indiana, against the Aylor & Meyer Co., a partnership, Aurora and Rising Sun, Ind.

**ALLEGED SHIPMENT:** Between the approximate dates of October 16 and November 5, 1945, from the State of Indiana into the States of Ohio and Kentucky.

**LABEL, IN PART:** "Romeo White Bolted Corn Meal," or "Romeo White Bolted Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent excreta fragments.

**DISPOSITION:** June 25, 1946. A plea of guilty having been entered, the court imposed a fine of \$50.

**9402. Adulteration of corn meal. U. S. v. Baltic Mills. Plea of guilty. Fine, \$100.** (F. D. C. No. 19040. Sample Nos. 14585-H to 14587-H, incl.)

**INFORMATION FILED:** April 18, 1946, Southern District of Indiana, against the Baltic Mills, a partnership, Haubstadt, Ind.

**ALLEGED SHIPMENT:** On or about October 3, 1945, from the State of Indiana into the State of Kentucky.



LABEL, IN PART: "Knox County \* \* \* Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: May 17, 1946. A plea of guilty having been entered, the defendant was fined \$100.

**9403. Adulteration of corn meal. U. S. v. Norris Grain Co. Plea of guilty. Fine, \$50.** (F. D. C. No. 18604. Sample No. 23326-H.)

INFORMATION FILED: January 29, 1946, Western District of Missouri, against the Norris Grain Co., Webb City, Mo.

ALLEGED SHIPMENT: On or about August 22, 1945, from the State of Missouri into the State of Arkansas.

LABEL, IN PART: "Squirrel Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, insects, and insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 25, 1946. A plea of guilty having been entered, the court imposed a fine of \$50.

**9404. Adulteration of corn meal. U. S. v. 2,075 Bags of Corn Meal and 24 Bales of Corn Meal. Default decrees of condemnation. Product ordered used for animal feed.** (F. D. C. Nos. 18531, 19206. Sample Nos. 3585-H, 14314-H.)

LIBELS FILED: December 7, 1945, and February 12, 1946, Western District of Kentucky and District of Maryland.

ALLEGED SHIPMENT: On or about November 8 and December 17, 1945, by George K. Crutchfield, Jr., and George W. Crutchfield, from Port Republic, Va.

PRODUCT: 2,075 2-pound bags of corn meal at Louisville, Ky., and 24 bales, each containing 25 2-pound bags, of the same product at Baltimore, Md.

LABEL, IN PART: "Crutchfield's Pamunkey Mills Brand Corn Meal," or "Crutchfield's Pamunkey Mills Brand Old Virginia Water Ground Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments in the Louisville lot and rodent excreta and rodent hair fragments in the Baltimore lot.

DISPOSITION: March 11 and 26, 1946. No claimant having appeared, judgments of condemnation were entered and the Louisville lot was ordered delivered to a public institution, for use as animal feed. The Baltimore lot was ordered sold for the same purpose.

**9405. Adulteration of corn meal. U. S. v. 1,200 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17495. Sample No. 23330-H.)

LABEL FILED: September 20, 1945, Western District of Arkansas.

ALLEGED SHIPMENT: On or about August 1, 1945, by the Lipscomb Grain and Seed Co., from Springfield, Mo.

PRODUCT: 1,200 25-pound bags of corn meal at Cotter, Ark.

LABEL, IN PART: "Lipscomb's Cream Meal Made From White Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hairs, and insect fragments.

DISPOSITION: March 15, 1946. The Harrison Grocery Co., Harrison, Ark., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration so that it could not be disposed of for human consumption.



**9406. Adulteration of corn meal. U. S. v. 994 Bags of Corn Meal (and 4 other seizure actions against corn meal). Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17041, 17042, 17136, 18487, 18488. Sample Nos. 13661-H, 13663-H, 13667-H, 14123-H, 14124-H.)

**LIBELS FILED:** Between August 10 and November 23, 1945, Middle District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of July 23 and October 30, 1945, by the Auburn Roller Mills, from Auburn, Ky.

**PRODUCT:** Corn meal. 994 bags at Nashville, Tenn., 1,136 bags at Gallatin, Tenn., 500 bags at Columbia, Tenn., and 1,141 bags at Lewisburg, Tenn.

**LABEL, IN PART:** "Old Time Cream Meal," "Water Maid Bolted Meal," or "Uncle Sam Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, rodent excreta, and rodent hairs; and, Section 402 (a) (4), a portion of the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** Between August 31, 1945, and February 7, 1946, the Auburn Roller Mills, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

**9407. Adulteration of corn meal. U. S. v. 594 Bags and 15 Bags of Corn Meal. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed.** (F. D. C. Nos. 18486, 19360. Sample Nos. 10748-H, 14118-H.)

**LIBELS FILED:** November 23, 1945, and March 15, 1946, Middle District of Tennessee and Western District of New York.

**ALLEGED SHIPMENT:** On or about October 8, 1945, and January 3, 1946, by the Decatur Milling Co., Inc., from Decatur, Ill.

**PRODUCT:** 594 25-pound bags of corn meal at Nashville, Tenn., and 15 100-pound bags of the same product at Buffalo, N. Y.

**LABEL, IN PART:** "Degerminated Hudnut's Hexagon Brand Cream Meal," or "Degerminated Kiln Dried Hudnut's Cream Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** March 14, 1946; amended April 11, 1946. The Decatur Milling Co., claimant for the Nashville lot, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency. On April 9, 1946, no claimant having appeared for the Buffalo lot, judgment of condemnation was entered and the product was ordered destroyed.

**9408. Adulteration of corn meal and phosphated and self-rising flour. U. S. v. 190 Bags of Corn Meal (and 3 other seizure actions against corn meal and phosphated and self-rising flour). Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 16943, 17411, 17412, 17414, 17941. Sample Nos. 23080-H, 23992-H, 24859-H, 24864-H, 24865-H.)

**LIBELS FILED:** Between August 9 and October 22, 1945, Southern District of Alabama, Northern District of Mississippi, and Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of October 13, 1944, and July 24, 1945, by the Shawnee Milling Co., from Shawnee, Okla.

**PRODUCT:** 125 bags of self-rising flour, 756 bags of phosphated flour, and 270 bags of corn meal at Greenwood, Miss.; and 2,330 bags of corn meal at Demopolis, Ala., Oxford, Miss., and Jackson, Tenn.

**LABEL, IN PART:** "Old Hoe Cake Pearl Meal," "Snowdrift Cream Meal," "Silver Spoon Highest Patent Flour," or "Shawnee's Best Extra Fancy Patent Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent excreta, rodent hair fragments, insect fragments, weevils, and larvae.

**DISPOSITION:** Between October 4, 1945, and February 4, 1946, the Demopolis Wholesale Grocery Co., Demopolis, Ala., the Weaver Grocery Co., Greenwood,



Miss., the Oxford Wholesale Grocery Co., Oxford, Miss., and Lake Brothers, Jackson, Tenn., claimants, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

**9409. Adulteration of corn meal. U. S. v. 295 Bags and 170 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17410. Sample No. 24750-H.)**

**LIBEL FILED:** September 11, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** On or about July 5, 1945, by the Earle Mill and Elevator Co., from Earle, Ark.

**PRODUCT:** 295 10-pound bags and 170 25-pound bags of corn meal at Greenwood, Miss.

**LABEL, IN PART:** "Lucky Stars Cream Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** January 2, 1946. The Russell Co., Greenwood, Miss., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Federal Security Agency.

**9410. Adulteration of corn meal. U. S. v. 100 Bags and 250 Bags of Corn Meal. Default decrees of condemnation. Product ordered sold. (F. D. C. Nos. 18346, 18384. Sample Nos. 52508-H, 52587-H.)**

**LIBEL FILED:** November 5 and 13, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about October 20 and 29, 1945, by the Patterson Milling Co., from Piketon, Ohio.

**PRODUCT:** 100 10-pound bags, 100 25-pound bags, and 50 5-pound bags of corn meal at Ashland, Ky., and 110 25-pound bags of the same product at Jackson, Ky.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** January 11 and 16, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered sold. The decree provided that the purchaser execute a bond, conditioned that the product be converted into animal feed, or that he first denature the corn meal under the supervision of the Federal Security Agency, so that it could not be disposed of for human consumption.

**9411. Adulteration of corn meal. U. S. v. 258 Bags of Corn Meal. Default decree of condemnation. Product ordered delivered to a charitable institution, for use as animal feed. (F. D. C. No. 18372-A. Sample No. 14591-H.)**

**LIBEL FILED:** November 19, 1945, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about October 31, 1945, by the Ewing Mills Co., Brownstown, Ind.

**PRODUCT:** 258 bags of corn meal at Louisville, Ky.

**LABEL, IN PART:** (Bag) "5 Lbs. Ewing Mills Pearl Meal Kiln Dried De-germinated."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments.

**DISPOSITION:** January 21, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, for use as animal feed.

**9412. Adulteration of corn meal. U. S. v. 44 Bags of Corn Meal. Default decree of condemnation. Product ordered sold for use as animal feed. (F. D. C. No. 18460. Sample No. 14244-H.)**

**LIBEL FILED:** November 27, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about November 3, 1945, by the City Roller Mills, Vevay, Ind.



PRODUCT: 44 10-pound bags of corn meal at Idelwild, Ky.

LABEL, IN PART: "Lily of The Valley Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: January 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned that the purchaser convert it into animal feed.

**9413. Adulteration of corn meal. U. S. v. 240 Bags of Corn Meal (and 2 other seizure actions against corn meal). Default decrees of condemnation. Product ordered sold or destroyed. (F. D. C. Nos. 18390, 18391, 18418. Sample Nos. 52588-H, 52589-H, 52593-H.)**

LIBELS FILED: November 15 and 21, 1945, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about October 29 and November 1 and 5, 1945, by the Cadick Milling Co., from Grand View, Ind.

PRODUCT: Corn Meal. 210 24-pound bags and 30 10-pound bags at Combs, Ky., and 323 25-pound bags and 319 10-pound bags at Harlan, Ky.

LABEL, IN PART: "Cadicks Old Style Unbolted Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent excreta fragments.

DISPOSITION: January 11, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered sold or destroyed. The decrees provided that if the product were sold the purchaser was to execute a bond, conditioned upon converting the corn meal into stock feed; or that the corn meal be denatured under the supervision of the Federal Security Agency before delivery to the purchaser. The lot at Combs was sold, and the 2 lots at Harlan were destroyed because of failure to find a purchaser.

**9414. Adulteration of corn meal. U. S. v. 162 Bags of Corn Meal. Default decree of condemnation. Product ordered sold. (F. D. C. No. 18383. Sample No. 52586-H.)**

LIBEL FILED: November 13, 1945, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about October 22, 1945, by the Gwinn Brothers & Co., from Huntington, W. Va.

PRODUCT: 162 25-pound bags of corn meal at West Liberty, Ky.

LABEL, IN PART: "Gwinn's Table Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: January 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold. The decree provided that the purchaser execute a bond, conditioned that the corn meal be converted into stock feed; or that he first denature the corn meal under the supervision of the Federal Security Agency, so that it could not be disposed of for human consumption.

**9415. Adulteration of corn meal. U. S. v. 258 Bags of Corn Meal. Default decree of condemnation. Product ordered disposed of as animal feed. (F. D. C. No. 18526. Sample Nos. 23532-H to 23534-H, incl.)**

LIBEL FILED: December 3, 1945, Western District of Kentucky.

ALLEGED SHIPMENT: On or about November 7 and 14, 1945, by the U-Tote-Em Grocery Co., from McKenzie, Tenn.

PRODUCT: 258 5- or 10-pound bags of corn meal at Clinton and Fulton, Ky.

LABEL, IN PART: "Acro Highest Quality Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hair fragments, and insect fragments.

DISPOSITION: May 13, 1946. No claimant having appeared, judgment of condemnation was entered and the product was delivered to a county institution, for use as animal feed.



**9416. Adulteration of corn meal. U. S. v. 74 Bags and 87 Bags of Corn Meal (and 1 other seizure action against corn meal). Default decrees of condemnation. Product ordered disposed of as animal and poultry feed.** (F. D. C. Nos. 18505, 18506. Sample Nos. 23526-H to 23529-H, incl.)

**LIBELS FILED:** November 27, 1945, Eastern District of Illinois and Middle District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of October 4 and 31, 1945, by the Mayfield Milling Co., Inc., from Mayfield, Ky.

**PRODUCT:** 74 5-pound bags and 87 10-pound bags of corn meal at Cairo, Ill., and 70 10-pound bags and 8 25-pound bags of the same product at Dover, Tenn.

**LABEL, IN PART:** "Jersey Cream Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hair fragments, and rodent excreta; and, Section 402(a)(4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 2 and 22, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered disposed of for use as animal and poultry feed.

#### FLOUR\*

Nos. 9417 to 9443 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.) In addition, the flour reported in Nos. 9444 to 9449 failed to meet the standard for enriched flour.

**9417. Adulteration of brewer's grits and flour. U. S. v. 757 Bags of Brewers Grits (and 3 other seizure actions against flour). Decrees of condemnation. One lot ordered released under bond; two lots ordered used for animal feed; remaining lot ordered destroyed.** (F. D. C. Nos. 17670, 18113, 18256, 18780. Sample Nos. 14206-H, 14560-H, 51012-H, 52604-H.)

**LIBELS FILED:** September 25, October 31, and November 13, 1945, and January 4, 1946, Southern District of Ohio, Southern District of Indiana, District of Minnesota, and Eastern District of Kentucky.

**ALLEGED SHIPMENT:** Between the approximate dates of May 2 and August 18, 1945, by the International Milling Co., from Greenville, Tex., and New Prague and Minneapolis, Minn.

**PRODUCT:** Brewer's grits: 757 100-pound bags at Cincinnati, Ohio. Flour: 28 100-pound bags at Indianapolis, Ind., 69 100-pound bags at Frankfort, Ky., and 60 140-pound bags at St. Paul, Minn.

**LABEL, IN PART:** "Calla Lily [or "Red Dragon," or "Seal of Minnesota"] Flour."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, weevils, and insect fragments.

**DISPOSITION:** November 9 and December 12, 1945, and February 26, 1946. The Clyffside Brewing Co., Cincinnati, Ohio, claimant for the Cincinnati lot, and the International Milling Co., claimant for the Frankfort lot, having admitted the allegations of the libels against those lots, judgments of condemnation were entered. The Cincinnati lot was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration. The Frankfort lot having been sold for conversion into stock feed prior to the entry of a decree, the court ordered the proceeds from the sale paid into the court and the costs deducted and the balance paid to the claimant. No claimant having appeared for the remaining lots, judgments were entered ordering that the St. Paul lot be destroyed unless reprocessed and disposed of as animal feed, under the supervision of the Food and Drug Administration, and that the Indianapolis lot be forfeited and destroyed.

**9418. Adulteration of flour. U. S. v. 428 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19325. Sample No. 14397-H.)

**LIBEL FILED:** March 8, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 29, 1945, from Indianapolis, Ind.

**PRODUCT:** 428 100-pound bags of flour at Cincinnati, Ohio, in the possession of

\*See also No. 9408.



the Kroger Grocery & Baking Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been stored under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 15, 1946. The Kroger Grocery and Baking Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured and converted into stock feed, under the supervision of the Food and Drug Administration.

**9419. Adulteration of flour. U. S. v. 95 Bags and 222 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18618. Sample Nos. 32283-H, 32284-H.)**

**LIBEL FILED:** December 13, 1945, District of Arizona.

**ALLEGED SHIPMENT:** On or about April 19, 1945, by the Eagle Flour Mills, from Denver, Colo.

**PRODUCT:** 317 25-pound bags of flour at Prescott, Ariz.

**LABEL, IN PART:** (Bag) "Pride of the Rockies Flour \* \* \* The Denver Flour Mills Co. Denver, Colorado," or "Bleached Bellerose Flour \* \* \* The Pueblo Flour Mills Co. Pueblo, Colorado."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** January 24, 1946. The Allen Trading Co., an Arizona corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into animal feed, under the supervision of the Federal Security Agency.

**9420. Adulteration of flour. U. S. v. 55 Bags and 204 Bags of Flour. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 19158, 19159. Sample Nos. 1248-H, 1815-H.)**

**LIBELS FILED:** February 4, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 5 and 15 and December 4, 1945, from Cleveland, Tenn., and Alton, Ill.

**PRODUCT:** 259 140-pound bags of flour at Atlanta, Ga., in the possession of the Puritan Mills. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination of the product showed the presence of rodent urine and (in one lot) rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become adulterated with filth.

**DISPOSITION:** February 20, 1946. The Puritan Mills, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for the separation of the fit from the unfit portion and the conversion of the latter into stock feed under the supervision of the Federal Security Agency.

**9421. Adulteration of flour. U. S. v. 134 Bags of Flour. Consent decree of condemnation. Product ordered sold for use as hog feed. (F. D. C. No. 17199. Sample No. 7780-H.)**

**LIBEL FILED:** August 27, 1945, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 5, 1945, from Indianapolis, Ind.

**PRODUCT:** 134 100-pound bags of flour at Scranton, Pa., in the possession of the Pennsylvania Baking Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the flour



contained rodent excreta, rodent hair fragments, and insect fragments; and that it was contaminated with rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 21, 1946. The Pennsylvania Baking Co., claimant, having withdrawn its answer and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered sold for use as hog feed.

**9422. Adulteration of flour. U. S. v. 100 Bags of Flour. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 17510. Sample No. 24759-H.)**

**LIBEL FILED:** October 5, 1945, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about September 1, 1945, by the Seguin Milling Co., from Seguin, Tex.

**PRODUCT:** 100 100-pound bags of flour at Lafayette, La.

**LABEL, IN PART:** "Bleached Diamond White Satin Baker's Short Patent Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live weevils.

**DISPOSITION:** January 7, 1946. The Kimball-Diamond Milling Co., Fort Worth, Tex., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9423. Adulteration of flour. U. S. v. 66 Bags and 25 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19096. Sample Nos. 30756-H, 30757-H.)**

**LIBEL FILED:** February 7, 1946, District of Nevada.

**ALLEGED SHIPMENT:** On or about November 17 and December 13, 1945, from Ogden, Utah.

**PRODUCT:** 25 50-pound bags and 66 100-pound bags of flour at Gardnerville, Nev., in the possession of the William Graunke Warehouse. The product was stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the bags, and examination showed that the product was contaminated with rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 21, 1946. The William Graunke Warehouse Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock and poultry feed under the supervision of the Federal Security Agency.

**9424. Adulteration of doughnut flour, sweet dough flour, and baking mixes. U. S. v. 42 Bags of Donut Flour (and 5 other seizure actions against sweet dough flour and baking mixes). Default decrees of condemnation. Products ordered destroyed or disposed of for use other than for human consumption. (F. D. C. Nos. 17253, 17764, 17936, 17956, 18714, 18715. Sample Nos. 1240-H to 1245-H, incl., 23442-H, 23479-H, 24553-H to 24555-H, incl., 24718-H, 35669-H.)**

**LIBELS FILED:** Between September 11, 1945, and January 4, 1946, Northern District of Mississippi, Eastern Districts of Louisiana, Missouri, and Arkansas, and Southern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of June 30 and September 8, 1945, by the Doughnut Corporation of America, Ellicott City, Md.

**PRODUCT:** 42 bags of doughnut flour, 3 bags of sweet dough flour, 203 bags of bran muffin mix, 229 bags of corn muffin mix, 121 bags of biscuit mix, and 29 bags of pancake mix at Columbus, Miss., New Orleans, La., St. Louis, Mo., Pine Bluff, Ark., and Savannah, Ga. Examination showed that the products contained weevils, larvae, beetles, cast skins, and insect fragments.



**LABEL, IN PART:** (Portions) "Downyflake Bran Muffin [or "Corn Muffin," "Fixin Corn Muffin," "Biscuit," or "Egg Pancake"] Mix."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances.

**DISPOSITION:** Between October 17, 1945, and February 12, 1946. No claimant having appeared, judgments of condemnation were entered. It was ordered that the St. Louis lot be sold for use other than for human consumption; that the Georgia and Arkansas lots be delivered to State and charitable institutions, for use as animal feed; and that the other lots be destroyed.

**9425. Adulteration of phosphated flour. U. S. v. 27 Bags and 144 Bags of Flour. Product ordered released under bond. (F. D. C. No. 17696. Sample Nos. 23340-H, 23341-H.)**

**LIBEL FILED:** On or about October 10, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about July 28 and 30 and August 9, 1945, from Omaha and Fremont, Nebr.

**PRODUCT:** 27 50-pound bags and 144 100-pound bags of phosphated flour at Jefferson City, Mo., in the possession of the Nebraska Consolidated Mills Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta and insect fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 25, 1946. The Nebraska Consolidated Mills Co., claimant, having admitted that the allegations of the libel were true with respect to a portion of the product, judgment was entered ordering that the product be released under bond for the separation of the fit from the unfit portion and the conversion of the latter into stock feed under the supervision of the Food and Drug Administration.

**9426. Adulteration of phosphated and self-rising flour. U. S. v. 261 Bags of Flour. Default decree of condemnation. Product ordered delivered to a State institution, for use as animal feed. (F. D. C. No. 17511. Sample No. 24827-H.)**

**LIBEL FILED:** October 5, 1945, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about August 22, 1945, by the Scott County Milling Co., Sikeston, Mo.

**PRODUCT:** 39 25-pound bags of phosphated flour and 222 25-pound bags of self-rising flour at Winnsboro, La.

**LABEL, IN PART:** "Finest Silk Highest Patent Flour Bleached Self-Rising [or "Plain Bleached Phosphated"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and larvae.

**DISPOSITION:** February 9, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a State institution, for use as animal feed.

**9427. Adulteration of phosphated and self-rising flour. U. S. v. 64 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17413. Sample No. 24744-H.)**

**LIBEL FILED:** September 7, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** On or about May 1, 1945, by the Acme Flour Mills Co., from Oklahoma City, Okla.

**PRODUCT:** 64 bags, each containing 50 pounds, of flour at Oxford, Miss.

**LABEL, IN PART:** "Linen Finish Bleached Phosphated [or "Self-Rising"] Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in



whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** October 11, 1945. The Oxford Wholesale Grocery Co., Oxford, Miss., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

**9428. Adulteration of pastry flour. U. S. v. 99 Bags of Pie Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17057. Sample No. 17160-H.)

**LIBEL FILED:** October 4, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 23, 1945, by the Spokane Flour Mills Co., from Spokane, Wash.

**PRODUCT:** 99 100-pound bags of pastry flour at Chicago, Ill.

**LABEL, IN PART:** "Golden Harvest Pie Unbleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** On January 30, 1946, Hillman's Inc., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for salvaging for use as stock feed, under the supervision of the Food and Drug Administration.

**9429. Adulteration of plain flour and pastry flour. U. S. v. 2,079 Sacks of Plain Flour (and 4 other seizure actions against plain flour and pastry flour). Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 17681, 17722, 19362, 19561, 19579. Sample Nos. 29861-H to 29863-H, incl., 29865-H, 29866-H, 30070-H, 45551-H, 45563-H, 45564-H, 46113-H, 46114-H.)

**LIBELS FILED:** On September 26 and October 9, 1945, and March 21 and 29 and April 4, 1946, Northern District of California.

**ALLEGED SHIPMENT:** Between the approximate dates of March 22, 1945, and February 22, 1946, by the Western Milling Co., Pendleton and Freewater, Ore.

**PRODUCT:** 2,185 100-pound sacks of plain flour and 50 100-pound sacks of pastry flour at San Francisco, Calif., and 2 lots, consisting of 1,200 100-pound sacks, of plain flour at Oakland, Calif. Both of the Oakland lots had been packed in filthy second-hand sacks, and one of the Oakland lots (600 sacks) had been stored under insanitary conditions while in the possession of the Lefevre Warehouse, Oakland, Calif.

**LABEL, IN PART:** "Quality Hico Flour," or "Pan Soft \* \* \* Flour \* \* \* Western Milling Co. Division of Preston-Shaffer Milling Co."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine and beetles; and, Section 402 (a) (4), both of the Oakland lots had been packed under insanitary conditions whereby they may have become contaminated with filth, and one of the Oakland lots had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** On October 23, 1945, H. H. Cook, claimant for 176 sacks of the flour at San Francisco, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration. On April 5 and 22, 1946, Langendorf United Bakeries, Inc., Oakland, Calif., claimant for the remaining lots, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**9430. Adulteration of plain, self-rising, and phosphated flour. U. S. v. 758 Bags of Plain, Self-Rising, and Phosphated Flour (and 2 other seizure actions against flour). Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 17206, 17568, 17892. Sample Nos. 385-H to 388-H, incl., 23081-H, 24714-H, 24716-H, 24717-H.)

**LIBELS FILED:** Between August 27 and October 10, 1945, Southern District of Mississippi, Western District of Kentucky, and Southern District of Florida.



**ALLEGED SHIPMENT:** Between November 9, 1944, and July 2, 1945, from Clarks-ville, Tenn., Dothan, Ala., and Evansville, Ind., by the Igleheart Brothers, Inc., the Dunlop Milling Co., Division of Igleheart Brothers, Inc., and the Indiana Flour Co., Inc., Division of Igleheart Brothers, Inc.

**PRODUCT:** 758 bags at Macon, Miss., 42 bags at Paducah, Ky., and 1,512 bags at Jacksonville, Fla., of plain, self-rising, and phosphated flour.

**LABEL, IN PART:** "Igleheart's Tender Flake \* \* \* Flour," or "Snow-Kist Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils, beetles, and larvae.

**DISPOSITION:** Between September 27, 1945, and January 3, 1946, W. P. Chancellor & Sons, Macon, Miss., Kirchhoff's Bakery, Paducah, Ky., and the National Grocery and Tobacco Co., Jacksonville, Fla., having appeared as claimants and consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

**9431. Adulteration of pumpnickel flour. U. S. v. 5 Bags of Pumpnickel Flour. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17588. Sample No. 4854-H.)

**LIBEL FILED:** September 20, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 30, 1945, by the New Ulm Roller Mill Co., from New Ulm, Minn.

**PRODUCT:** 5 100-pound bags of pumpnickel flour at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** January 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.

**9432. Adulteration of rice flour. U. S. v. 25 Bags of Rice Flour. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17197. Sample Nos. 13980-H, 13981-H.)

**LIBEL FILED:** August 24, 1945, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about May 29 and June 18, 1945, by Stein-Hall, from Chicago, Ill.

**PRODUCT:** 25 100-pound bags of rice flour at Louisville, Ky.

**LABEL, IN PART:** "Hallmark Rice Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

**DISPOSITION:** January 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.

**9433. Adulteration of self-rising flour. U. S. v. 779 Bags of Self-Rising Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18376-A. Sample No. 1326-H.)

**LIBEL FILED:** November 23, 1945, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about August 2 and 30, 1945, by the Abilene Flour Mills Co., from Abilene, Kans.

**PRODUCT:** 779 10-pound bags of self-rising flour at Quincy, Fla.

**LABEL, IN PART:** "Lite Flake Self-Rising Flour Bleached Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** January 11, 1946. The Higdon Grocery Co., Quincy, Fla., claim- and, having admitted the material allegations of the libel, judgment of con- demnation was entered and the product was ordered released under bond to be denatured for use as stock feed.



**9434. Adulteration of self-rising flour. U. S. v. 338 Bags of Self-rising Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18474. Sample No. 1605-H.)**

**LIBEL FILED:** December 6, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about October 22 and 24, 1945, from Shawnee, Okla.

**PRODUCT:** 338 50-pound bags of self-rising flour at Cedartown, Ga., in the possession of E. J. Dugan. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 8, 1946. E. J. Dugan, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and converted into stock feed, under the supervision of the Federal Security Agency.

**9435. Adulteration of self-rising flour. U. S. v. 70 Bags of Self-rising Flour (and 2 other seizure actions against self-rising flour). Default decrees of condemnation. Portion of product ordered delivered to a Federal institution for use as hog feed; remainder ordered destroyed. (F. D. C. Nos. 17306, 18130, 18187. Sample Nos. 400-H, 788-H, 1322-H.)**

**LIBELS FILED:** On or about September 13, October 26, and November 21, 1945, Eastern District of South Carolina and Northern and Southern Districts of Florida.

**ALLEGED SHIPMENT:** On or about May 31, July 20, and September 27, 1945, from Richmond, Va., and Mobile, Ala., by the Dixie-Portland Flour Co.

**PRODUCT:** Self-rising flour. 70 50-pound bags at Hartsville, S. C., 74 25-pound bags and 42 10-pound bags at Tallahassee, Fla., and 28 50-pound bags at Lake City, Fla.

**LABEL, IN PART:** "Sweet Home Self-Rising Bleached Flour," "Self-Rising Flour Golden West Flour," "Enriched Self-Rising Flour \*\*\* Snowball Flour Milled for Majestic Flour Mill Aurora, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

**DISPOSITION:** October 12 and December 11, 1945, and May 18, 1946. No claimant having appeared, judgments of condemnation were entered and it was ordered that the Tallahassee lot be delivered to a federal institution, for use as hog feed, and that the other lots be destroyed.

**9436. Adulteration of self-rising flour. U. S. v. 201 Bags of Self-Rising Flour. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 18502. Sample No. 497-H.)**

**LIBEL FILED:** November 27, 1945, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about September 28, 1945, from Louisville, Ky.

**PRODUCT:** 201 25-pound bags of self-rising flour at Columbus, Ga., in the possession of the King Grocery Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.



**9437. Adulteration of self-rising and phosphated flour. U. S. v. 142 Bags of Self-Rising Flour and 1,598 Bags of Phosphated Flour. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 19229. Sample Nos. 1622-H, 1623-H, 1714-H.)**

**LIBEL FILED:** March 1, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 2 and 8 and December 6, 1945, from Nashville, Tenn., and Louisville, Ky.

**PRODUCT:** 142 50-pound bags of self-rising flour and 1,598 10-pound bags of phosphated flour at Atlanta, Ga., in the possession of the Ballard and Ballard Co., Inc., Warehouse. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent urine was observed on them. Examination showed that the products were contaminated with rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 15, 1946. The Ballard and Ballard Co., Inc., Louisville, Ky., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond, conditioned that the unfit portion be segregated and converted into stock feed, under the supervision of the Federal Security Agency.

**9438. Adulteration of self-rising and plain flour. U. S. v. 246 Bags of Plain Flour and 1,916 Bags of Self-Rising Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19089. Sample Nos. 1506-H to 1514-H, Incl.)**

**LIBEL FILED:** February 6, 1946, Middle District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of September 27 and December 6, 1945, from Richmond, Va., Hopkinsville, Ky., and Wichita, Kans.

**PRODUCT:** 1,782 25-pound bags and 134 10-pound bags of self-rising flour, and 119 25-pound bags and 127 10-pound bags of plain flour at Albany, Ga., in the possession of the C. D. Kenny Division, Consolidated Grocers Corporation. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4) it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 13, 1946. The C. D. Kenny Division, Consolidated Grocers Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be denatured and converted into stock feed, under the supervision of the Food and Drug Administration.

**9439. Adulteration of self-rising flour and plain flour. U. S. v. 845 Bags of Self-Rising Flour and 110 Bags of Plain Flour. Default decrees of condemnation. Self-rising flour ordered delivered to a public institution; plain flour ordered destroyed. (F. D. C. Nos. 16895, 16995. Sample Nos. 24498-H, 29656-H, 29657-H.)**

**LIBELS FILED:** August 8, 1945, Southern District of California, and on or about August 14, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about April 17 and May 28 by the Crown Mills, from Portland, Oreg.

**PRODUCT:** 845 25-pound bags of self-rising flour at Mobile, Ala., and 110 50-pound bags of plain flour at Eureka, Calif.

**LABEL, IN PART:** "Atlantic Queen Self-Rising Flour," "Crown Best Patent Bleached Flour," or "Kitchen Queen Hard Wheat Family Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae in the Mobile lot and of larvae and rodent excreta in the Eureka lot.

**DISPOSITION:** October 29, 1945, and January 2, 1946. No claimant having appeared, judgments of condemnation were entered and the Mobile lot was



ordered delivered to a public institution. The Eureka lot was ordered destroyed.

**9440. Adulteration of soy flour. U. S. v. 146 Bags and 40 Bags of Soy Flour. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed.** (F. D. C. Nos. 17514, 17952. Sample Nos. 31598-H, 43427-H.)

**LIBELS FILED:** October 16, 1945, and February 18, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 20, May 7, and September 27, 1945, by the Central Soya Co., Inc., from Fort Wayne, Ind.

**PRODUCT:** 186 100-pound bags of soy flour at Los Angeles, Calif.

**LABEL, IN PART:** "Soy Flour Hi-Soy."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect parts, moths, and rodent hairs.

**DISPOSITION:** On November 20, 1945, no claimant having appeared for the 40-bag lot, judgment of condemnation was entered and the product was ordered destroyed. On March 6, 1946, the Central Soya Co., Inc., claimant, having consented to the entry of a decree, the 146-bag lot was ordered condemned and released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

**9441. Adulteration of soy flour. U. S. v. 94 Bags of Soy Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19275. Sample No. 9831-H.)

**LIBEL FILED:** March 1, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about January 11, 1946, from Decatur, Ill.

**PRODUCT:** 94 100-pound bags of soy flour at Buffalo, N. Y., in the possession of the Terminal and Transportation Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 14, 1945. Spencer Kellogg and Sons, Inc., Decatur, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of as animal or poultry feed, under the supervision of the Food and Drug Administration.

**9442. Adulteration of whole wheat flour. U. S. v. 14 Bags of Whole Wheat Flour. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17591. Sample No. 4852-H.)

**LIBEL FILED:** September 20, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 17 and July 3, 1945, by the Fingerlakes and Hudson Flour Mills, Inc., from Geneva, N. Y.

**PRODUCT:** 14 100-pound bags of whole wheat flour at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** January 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.

**9443. Adulteration of whole wheat flour and grits. U. S. v. 16 Bags of Whole Wheat Flour and 64 Bags of Grits. Consent decrees of condemnation. Products ordered delivered to a State institution.** (F. D. C. Nos. 18324, 18333. Sample Nos. 4766-H, 4767-H.)

**LIBELS FILED:** November 6 and 7, 1945, District of Delaware.

**ALLEGED SHIPMENT:** Between the approximate dates of June 25 and July 26, 1945, by Francis E. Maser, from New York, N. Y., and Paterson, N. J.



PRODUCT: 16 100-pound bags of whole wheat flour and 64 100-pound bags of grits at Wilmington, Del.

LABEL, IN PART: "Soft White Whole Wheat Flour," or "Ground Milo-Kafir Guaranteed by Philip H. Postel Milling Company Mascoutah, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles and larvae in the whole wheat flour and rodent hairs, larvae, and insect parts in the grits.

DISPOSITION: November 16, 1945. The consignee having consented to the entry of decrees, and a State hospital having requested the products for use as animal feed, judgments of condemnation were entered and the products were ordered delivered to the hospital.

**9444. Adulteration and misbranding of enriched flour. U. S. v. 1,875 Bags of Enriched Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17607. Sample No. 11667-H.)**

**LIBEL FILED:** October 2, 1945, District of Maine.

**ALLEGED SHIPMENT:** On or about August 16, 1945, by the Hardesty Milling Co., from Dover, Ohio.

PRODUCT: 1,875 25-pound bags of enriched flour at Rockland, Maine.

LABEL, IN PART: "Enriched with Vitamins and Iron \* \* \* Peerless Bleached Patent Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub> and iron, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard, which prescribes that enriched flour shall contain not less than 2.0 milligrams of vitamin B<sub>1</sub> and not less than 13.0 milligrams of iron per pound, since it contained approximately only 1.14 milligrams of vitamin B<sub>1</sub> and 9.97 milligrams of iron per pound.

DISPOSITION: January 22, 1946. The Hardesty Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be reprocessed so as to bring it into compliance with the law, under the supervision of the Federal Security Agency.

**9445. Adulteration and misbranding of enriched flour. U. S. v. 160 Bags, 800 Bags, and 600 Bags of Enriched Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18542. Sample Nos. 16156-H to 16158-H, incl.)**

**LIBEL FILED:** December 6, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about July 31 and August 14, 1945, by the Rodney Milling Co., from Kansas City, Mo.

PRODUCT: 960 25-pound bags and 600 bags of enriched flour at Bay City, Mich.

LABEL, IN PART: "Enriched \* \* \* Truworth Flour Short Patent Bleached," "Enriched \* \* \* K. B. Flour Bleached Short Patent," or "Enriched Big Master Flour Short Patent Bleached."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine (vitamin B<sub>1</sub>), had been in part omitted.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched flour since the definition and standard requires that enriched flour shall contain, in each pound, not less than 2.0 milligrams of thiamine, and the product contained less than that amount per pound.

DISPOSITION: March 16, 1946. The Rodney Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reprocessed to the required vitamin content, under the supervision of the Food and Drug Administration.

**9446. Adulteration and misbranding of enriched flour. U. S. v. 58 Bales of Enriched Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17608. Sample No. 11665-H.)**

**LIBEL FILED:** October 2, 1945, District of Maine.

**ALLEGED SHIPMENT:** On or about August 4, 1945, by the Gwinn Milling Co., from Columbus, Ohio.



PRODUCT: 58 bales, each containing 10 5-pound bags, of enriched flour at Bath, Maine.

LABEL, IN PART: "Enriched Flour \* \* \* Bleached \* \* \* Gwinn's Jefferson Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub> and iron, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard for enriched flour since it contained approximately 0.28 milligram of vitamin B<sub>1</sub> and 4.05 milligrams of iron per pound, whereas the standard requires not less than 2.0 milligrams of vitamin B<sub>1</sub> and not less than 13.0 milligrams of iron per pound.

DISPOSITION: February 28, 1946. The Gwinn Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9447. Adulteration and misbranding of enriched flour. U. S. v. 86 Bags of Enriched Flour. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18380-A. Sample No. 24762-H.)**

LIBEL FILED: On or about November 27, 1945, Northern District of Texas.

ALLEGED SHIPMENT: On or about October 2, 1945, by the Hacker Flour Mills, from Jefferson, Okla.

PRODUCT: 57 25-pound bags and 29 50-pound bags of enriched flour at Greenville, Tex.

LABEL, IN PART: "Enriched Flour Hope Chest Quality Family Flour Bleached."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B<sub>1</sub>) and iron, had been in part omitted from the article.

Misbranding; Section 403 (g) (1), the article failed to conform to the definition and standard of identity prescribed by the regulation for enriched flour since it contained approximately 1.52 milligrams of thiamine and 11.2 milligrams of iron per pound, whereas the definition and standard requires that the article contain not less than 2.0 milligrams of thiamine and not less than 13.0 milligrams of iron per pound.

DISPOSITION: January 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9448. Adulteration and misbranding of enriched plain flour and enriched phosphated flour. U. S. v. Tex-O-Kan Flour Mills Co. (Burrus Mill and Elevator Co.). Plea of guilty. Fine, \$100. (F. D. C. No. 16556. Sample Nos. 61618-F, 62049-F, 62197-F.)**

INFORMATION FILED: October 30, 1945, Northern District of Texas, against the Tex-O-Kan Flour Mills Co., a corporation, trading as the Burrus Mill and Elevator Co., Fort Worth, Tex.

ALLEGED SHIPMENT: On or about April 24, September 11, and November 3, 1944, from the State of Texas into the State of Louisiana.

LABEL, IN PART: "Enriched \* \* \* White Dove Flour," or "Enriched \* \* \* Phosphated Light Crust Bleached Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B<sub>1</sub>), in all shipments, and riboflavin, niacin, and iron, in one of the shipments, had been in part omitted from the article.

Misbranding, Section 403 (a), the statement, "Enriched 10 oz. of enriched flour contain not less than the following proportions of the minimum daily requirements of Vitamin B<sub>1</sub> (thiamine) 100%, and iron 37%, and 3.75 mg. of niacin," appearing on the label of one shipment of the article, was false and misleading since it represented and suggested that the article contained, per pound, the nutritional substances in the amounts prescribed by the regulations for enriched flour; and that 10 ounces of the article contained not less than 100 percent of the minimum daily requirement of the body for thiamine, whereas the article contained, per pound, lesser amounts of those nutritional substances than the minimum amounts required by the regulations, and 10 ounces of the article contained less than 100 percent of the minimum daily requirement of



the body for thiamine. Further misbranding, Section 403 (a), the statement, "Enriched 8 OZ. of enriched flour contain not less than the following proportions of the minimum daily requirements of Vitamin B<sub>1</sub> 100%," appearing on the label of the other shipments of the article, was false and misleading since the article, in those shipments, contained less than 2.0 milligrams of vitamin B<sub>1</sub> per pound, as required by the regulations for enriched flour, and 8 ounces of the article contained less than 100 percent of the minimum daily requirement of the body for vitamin B<sub>1</sub>.

Further misbranding, Section 403 (b) (1), the article failed to conform to the definition and standard of identity prescribed for enriched flour since all shipments contained less than 2.0 milligrams of thiamine, and one of the shipments contained less than 1.2 milligrams of riboflavin, less than 16.0 milligrams of niacin, and less than 13.0 milligrams of iron, whereas the definition and standard requires that enriched flour contain, per pound, not less than 2.0 milligrams of thiamine, not less than 1.2 milligrams of riboflavin, not less than 16.0 milligrams of niacin, and not less than 13.0 milligrams of iron.

**DISPOSITION:** March 27, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

**9449. Adulteration and misbranding of enriched phosphated flour. U. S. v. 120 Bags of Enriched Phosphated Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17496. Sample No. 23331-H.)

**LIBEL FILED:** September 24, 1945, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about August 10, 1945, by the Arkansas City Flour Mills, from Arkansas City, Kans.

**PRODUCT:** 120 50-pound bags of enriched phosphated flour at Cotter, Ark. Examination showed that the product contained approximately 1.49 milligrams of vitamin B<sub>1</sub> per pound. The definition and standard of identity for enriched flour requires that it contain at least 2.0 milligrams of vitamin B<sub>1</sub> per pound.

**LABEL, IN PART:** "Bleached Flour Calcium Phosphate Added Majestic Flour Mill Prince."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity prescribed by the regulations for enriched flour.

**DISPOSITION:** April 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### MACARONI AND NOODLE PRODUCTS

**9450. Adulteration of macaroni, spaghetti, and egg noodles. U. S. v. Roma Macaroni Factory, Albert Martinelli, and Domenic Louis Gerbo. Pleas of nolo contendere. Fines, \$1,250 against corporate defendant and \$5 against each individual defendant.** (F. D. C. No. 19034. Sample Nos. 29825-H, 29826-H, 29961-H, 29962-H, 30706-H, 30707-H.)

**INFORMATION FILED:** April 11, 1946, Northern District of California, against the Roma Macaroni Factory, a corporation, San Francisco, Calif., and Albert Martinelli and Domenic Louis Gerbo, superintendent and manager, respectively, of the manufacturing plant of the corporation.

**ALLEGED SHIPMENT:** On or about July 31, and August 1 and 24, 1945, from the State of California into the State of Nevada.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments, a mite, rodent hairs, rodent hair fragments, hairs resembling rodent hairs or cat hairs, insects, and unidentified hairs; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** June 3, 1946. Pleas of nolo contendere having been entered, the corporate defendant was fined \$250 and each of the individual defendants was fined \$1, on each of the 5 counts of the information.



**9451. Adulteration of macaroni. U. S. v. 22 Cases of Macaroni. Default decree of condemnation and destruction.** (F. D. C. No. 18328. Sample No. 32264-H.)

**LIBEL FILED:** November 7, 1945, District of Arizona.

**ALLEGED SHIPMENT:** On or about August 31, 1945, by the Pacific Macaroni Co., from Los Angeles, Calif.

**PRODUCT:** 22 cases, each containing 20 1-pound packages, of macaroni at Phoenix, Ariz.

**LABEL, IN PART:** "Gold Stem Brand 100% No. 1 Semolina Macaroni Products."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9452. Adulteration of macaroni products. U. S. v. 15 Cases and 21 Cases of Macaroni and 10 Cases of Spaghettoni. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19087, 19088. Sample Nos. 10999-H, 59709-H, 59712-H.)

**LIBEL FILED:** February 6, 1946, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 19 and December 21, 1945, by the Niagara Macaroni Manufacturing Co., Inc., from Buffalo, N. Y.

**PRODUCT:** 36 cases, each containing 20 pounds, of macaroni and 10 cases, each containing 20 1-pound packages, of spaghettoni at Pittsburgh, Pa.

**LABEL, IN PART:** "Niagara Brand Extra Fine Macaroni \* \* \* Linguine [or "Magliette"]," or "Niagara \* \* \* Spaghettoni."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 15, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

#### MISCELLANEOUS CEREAL PRODUCTS\*

**9453. Adulteration of ground buckwheat hulls. U. S. v. 765 Bags of Ground Buckwheat Hulls. Default decree of condemnation and destruction.** (F. D. C. No. 17662. Sample No. 13756-H.)

**LIBEL FILED:** September 26, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 17, 1945, by Frank H. Blodgett, Inc., from Janesville, Wis.

**PRODUCT:** 765 90-pound bags of ground buckwheat hulls at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article contained rodent hairs and insect fragments.

**DISPOSITION:** January 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9454. Adulteration of brewer's grits. U. S. v. 293 Bags of Brewer's Grits. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18348. Sample No. 1312-H.)

**LIBEL FILED:** On or about November 28, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 23, 1945, by the Kimbell Milling Co., from Clifton, Tex.

**PRODUCT:** 293 100-pound bags of brewer's grits at Orlando, Fla.

**LABEL, IN PART:** "Kimco Brewers Grits."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** December 12, 1945. The Atlantic Co., Orlando, Fla., claimant, having admitted the allegations of the libel, judgment of condemnation was

\*See also Nos. 9417, 9424, 9443.

entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9455. Adulteration of brewer's rice grits. U. S. v. 4,689 Bags of Brewer's Rice Grits. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18527, 18718, 18719. Sample Nos. 51002-H, 51004-H to 51008-H, incl., 51010-H.)

**LIBEL FILED:** On or about December 4; amended December 27, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** Between the approximate dates of May 7 and October 24, 1944, from Crowley, La.

**PRODUCT:** 2,019 200-pound bags and 2,670 100-pound bags of brewer's rice grits at Minneapolis, Minn., in the possession of the Security Warehouse Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta was observed on them. Examination of the product showed the presence of rodent excreta, urine, rodent hairs, weevils, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 20, 1946. The Pillsbury Mills, Inc., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. The product was used in the manufacture of alcohol.

**9456. Adulteration of rolled oats. U. S. v. 85 Bags and 24 Bags of Rolled Oats. Default decrees of condemnation. Portion of product ordered destroyed; remainder ordered delivered to a local hospital, for use as animal feed.** (F. D. C. Nos. 17613, 18374. Sample Nos. 1117-H, 4574-H.)

**LIBELS FILED:** September 27 and November 14, 1945, Eastern District of Pennsylvania and Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about August 9 and September 27, 1945, by the Quaker Oats Co., from Akron, Ohio.

**PRODUCT:** 85 bags and 24 bags of rolled oats at Philadelphia, Pa., and Valdese, N. C., respectively.

**LABEL, IN PART:** (Bag) "100 Lbs. Net Buckeye Rolled Oats."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

**DISPOSITION:** December 24, 1945, and January 10, 1946. No claimant having appeared, judgments of condemnation were entered and the North Carolina lot was ordered destroyed and the Pennsylvania lot was ordered delivered to a local hospital, for use as animal feed.

**9457. Adulteration of popcorn. U. S. v. 237 Cases and 171 Bags of Popcorn. Decrees of condemnation. One lot ordered released under bond; remaining lot ordered delivered to a public institution.** (F. D. C. Nos. 17565, 19076. Sample Nos. 10736-H, 31166-H.)

**LIBELS FILED:** September 18, 1945, and February 4, 1946, District of Arizona and Western District of New York.

**ALLEGED SHIPMENT:** On or about April 27 and November 21, 1945, by the Albert Dickinson Co., from Chicago, Ill.

**PRODUCT:** 237 cases, each containing 24 10-ounce packages, of popcorn at Phoenix, Ariz., and 171 100-pound bags of the same product at Buffalo, N. Y.

**LABEL, IN PART:** (Package) "Dickinson's Little Buster Hulless Pop Corn," or (bag) "Big Buster Brand South American Variety Yellow Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, in-



sect fragments, and insect excreta, in a portion, and beetles and insect fragments, in the remainder.

**DISPOSITION:** On January 18, 1946, no claimant having appeared for the Phoenix lot, judgment of condemnation was entered and the product was ordered delivered to the United States Indian School at Phoenix, for use as poultry feed. On February 27, 1946, the Langs Bakery, Inc., claimant for the Buffalo lot, having consented to the entry of a decree, judgment was entered ordering that the fit be separated from the unfit portion, under the supervision of the Food and Drug Administration, and that the unfit portion be condemned and destroyed, or disposed of in some other lawful manner.

**9458. Adulteration of popcorn. U. S. v. 70 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15662. Sample No. 18717-H.)**

**LIBEL FILED:** March 28, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 4, 1945, from the Victor Wholesale Co., from Missouri Valley, Iowa.

**PRODUCT:** 70 100-pound bags of popcorn at Minneapolis, Minn.

**LABEL, IN PART:** "Barnard's Best Bet Brand Hull-Less Yellow Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets.

**DISPOSITION:** April 24, 1946. The Barnard Popcorn Supply Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9459. Adulteration of popcorn. U. S. v. 44 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18496. Sample No. 18793-H.)**

**LIBEL FILED:** November 27, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about March 14, 1945, by the Plainview Oil Co., Inc., from Plainview, Minn.

**PRODUCT:** 44 bags, each containing 100 pounds, of popcorn at Eau Claire, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, and insect excreta.

**DISPOSITION:** January 8, 1946. The Favorite Confection Co., Eau Claire, Wis., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. The product was denatured for use as animal feed.

**9460. Adulteration of popcorn. U. S. v. 22 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15661. Sample No. 18716-H.)**

**LIBEL FILED:** March 29, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** Between December 12 and 24, 1944, from Bristol, S. Dak.

**PRODUCT:** 22 100-pound bags of popcorn at Minneapolis, Minn., in the possession of the Barnard Popcorn Supply Co. Examination showed that the product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 24, 1946. The Barnard Popcorn Supply Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.



**9461. Adulteration of popcorn. U. S. v. 7 Bags and 8 Drums of Popcorn (and 1 other seizure action against popcorn). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16262, 16397. Sample Nos. 21868-H, 21870-H, 21871-H.)**

**LIBELS FILED:** June 12, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about January 1 and April 23, 1945, by the Parker Seed House, from Murray, Ky.

**PRODUCT:** 13 100-pound bags, 1 200-pound drum, 1 300-pound drum, and 11 400-pound drums of popcorn at Covington, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed kernels, rodent excreta pellets, rodent hairs, larvae, insect fragments, and (portion) a decomposed substance, as evidenced by the presence of moldy kernels.

**DISPOSITION:** June 12, 1946. The Ruffin Amusement Co., Covington, Tenn., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Food and Drug Administration.

**9462. Adulteration of popcorn. U. S. v. 694 Cases of Popcorn. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 18374-A. Sample No. 16147-H.)**

**LIBEL FILED:** November 20, 1945, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about March 26, 1945, by Silver's Food Products, from Chicago, Ill.

**PRODUCT:** 694 cases, each containing 24 jars, of popcorn at Sturgis, Mich.

**LABEL, IN PART:** (Jar) "Pop It E-Z The Popcorn De Luxe Net Weight 10 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of mites and moldy kernels.

**DISPOSITION:** January 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as animal feed.

**9463. Adulteration of popcorn. U. S. v. 299 Cases of Popcorn. Default decree of condemnation and destruction. (F. D. C. No. 18517. Sample No. 16346-H.)**

**LIBEL FILED:** November 30, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about October 9, 1945, by the Hart and Howell Co., from Brooklyn, Mich.

**PRODUCT:** 299 cases, each containing 24 10-ounce packages, of popcorn at Milwaukee, Wis.

**LABEL, IN PART:** "Gloria Jean Golden Mushroom Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and weevils.

**DISPOSITION:** January 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9464. Adulteration of popcorn. U. S. v. 175 Cases of Popcorn. Default decree of condemnation and destruction. (F. D. C. No. 18528. Sample Nos. 12835-H, 14020-H, 14037-H.)**

**LIBEL FILED:** December 4, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about February 22, 1945, by the Consolidated Pop Corn Co., from Forney, Tex.

**PRODUCT:** 175 cases, each containing 36 cellophane bags, of popcorn at Cincinnati, Ohio.

**LABEL, IN PART:** (Bags) "R B Brand Large Yellow Pop Corn Net Wt. 10 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and moldy kernels.

**DISPOSITION:** January 2, 1946. The sole intervener having withdrawn its claim and answer, judgment of condemnation was entered and the product was ordered destroyed.



**9465. Adulteration of popcorn. U. S. v. 20 Cases of Popcorn (and 9 other seizure actions against popcorn). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed or delivered to Federal institutions, for use as animal feed.** (F. D. C. Nos. 17145, 17249, 17450, 17582, 17939, 18018, 18019, 18022, 18358, 18746. Sample Nos. 10990-H, 12331-H, 14794-H, 16130-H, 16132-H, 16133-H, 17231-H, 18413-H, 18414-H, 19293-H, 31165-H.)

**LIBELS FILED:** Between August 21 and December 21, 1945, Eastern and Western Districts of Michigan, Eastern District of Wisconsin, District of North Dakota, District of Arizona, Southern District of Iowa, District of New Hampshire, and Western District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of March 14 and May 4, 1945, by Edward A. Graham and Associates, from Chicago, Ill.

**PRODUCT:** 1,856 cases, each containing 36 bags, and 23 cases, each containing 30 bags, of popcorn at Traverse City, Grand Rapids, and Jackson, Mich.; Green Bay, Wis.; Grand Forks, N. Dak.; Phoenix, Ariz.; Davenport, Iowa; Nashua, N. H.; and New Castle, Pa.

**LABEL, IN PART:** "Popcorn Selected Finest Quality Net Wt. When Packed 8 Oz. Riverside Popcorn Sales Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent excreta, rodent-gnawed kernels, insects, rodent hairs, insect fragments, and moldy kernels.

**DISPOSITION:** Between October 8, 1945, and January 23, 1946, Philip Porter, Inc., claimant for the New Hampshire lot, having consented to the entry of a decree, and no claimant having appeared for the other lots, judgments of condemnation were entered and a portion of the New Hampshire lot was ordered released under bond for conversion into stock feed. The remainder of the product was ordered destroyed or delivered to Federal institutions, for use as animal feed.

## DAIRY PRODUCTS

### BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 9466 to 9478; that was below the standard for milk fat content, Nos. 9476 to 9493; and that was short of the declared weight, Nos. 9478 and 9494.

**9466. Adulteration of butter. U. S. v. 23 70-Pound Cubes of Butter. Default decree of condemnation and destruction.** (F. D. C. No. 18301. Sample No. 26160-H.)

**LIBEL FILED:** On or about August 27, 1945, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about July 21, 1945, by the Quint County Co-operative, from Mangum, Okla.

**PRODUCT:** 24 70-pound cubes of butter at Amarillo, Tex.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, feather barbules, and insect parts; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9467. Adulteration of butter. U. S. v. 3 Cases, 151 Cases, and 1 Case of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18453. Sample Nos. 2364-H to 2366-H, incl.)

**LIBEL FILED:** October 17, 1945, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about September 26, 1945, by the Tip-Top Creamery Co., from Vincennes, Ind.

**PRODUCT:** 155 32-pound cases of butter at Norfolk, Va. Examination showed that the product contained mold.

**LABEL, IN PART:** "Holland Brand Creamery Butter Distributed by Holland Butter Company, Boston, Mass. Division of Beatrice Creamery Company," or

"Meadow Gold Butter [or "White Rose Farm Rolls Butter"] \* \* \* Distributed by Beatrice Creamery Company."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed substance.

DISPOSITION: November 12, 1945. The Tip-Top Creamery Co., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into refined butter oil, under the supervision of the Food and Drug Administration.

**9468. Adulteration of butter. U. S. v. 105 Cases of Butter. Default decree of condemnation. Product ordered sold for use in the manufacture of soap.** (F. D. C. No. 19197. Sample Nos. 37128-H, 37129-H, 37138-H to 37141-H, incl.)

LIBEL FILED: December 28, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about November 8, 1945, by the Homestead Bakery, from San Francisco, Calif.

PRODUCT: 88 32-pound cases and 17 60-pound cases of butter at Portland, Oreg. Examination showed that the product contained mold.

LABEL, IN PART: "Swift's Brookfield Butter," or "S. S. David Wilmot \* \* \* Butter."

NATURE OF CHARGE: Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold at public auction, to be used in the manufacture of soap.

**9469. Adulteration of butter. U. S. v. 37 Boxes (2,294 pounds) of Butter. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19187. Sample No. 19426-H.)

LIBEL FILED: November 26, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 14, 1945, by the Maynard Cooperative Creamery, from Maynard, Minn.

PRODUCT: 37 62-pound boxes of butter at Philadelphia, Pa.

LABEL, IN PART: "Butter Distributed by C. G. Heyd & Co., Phila. Pa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed substance.

DISPOSITION: January 25, 1946. C. G. Heyd & Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be denatured and sold for purposes other than human consumption, under the supervision of the Food and Drug Administration.

**9470. Adulteration of butter. U. S. v. 42 Cases and 14 Cases of Butter. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered sold to be denatured.** (F. D. C. Nos. 18295, 18300. Sample Nos. 13296-H, 13683-H, 13684-H.)

LIBELS FILED: On or about August 18 and 20, 1945, Southern District of West Virginia and Southern District of Ohio.

ALLEGED SHIPMENT: Between the approximate dates of July 12 and August 6, 1945, by the Armour Creameries, from Louisville, Ky.

PRODUCT: 42 cases and 14 cases, each case containing 32 pounds, of butter at Charleston, W. Va., and Cincinnati, Ohio, respectively. Analysis showed that the product contained mold.

LABEL, IN PART: "Armour's Cloverbloom Butter."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy or decomposed substance.

DISPOSITION: November 14 and 15, 1945. The Armour Creameries Co., claimant for the Charleston lot, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be manufactured into butter oil, under the supervision of the Food and Drug Administration. No claimant having appeared for the remaining lot, judgment of condemnation was entered and the product was ordered sold to be denatured for use other than for human consumption.



**9471. Adulteration of butter. U. S. v. 28 Cases of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18311. Sample No. 21890-H.)**

**LIBEL FILED:** September 17, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about August 22, 1945, by the Jerpe Commission Co., from Fayetteville, Ark.

**PRODUCT:** 28 cases, each containing 32 1-pound cartons, of butter at Memphis, Tenn. This product contained excessive mold.

**LABEL, IN PART:** "Clear Brook Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the article consisted in whole or in part of a filthy or decomposed animal substance.

**DISPOSITION:** October 12, 1945. The Jerpe Commission Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into butter oil under the supervision of the Federal Security Agency.

**9472. Adulteration of butter. U. S. v. 16 Boxes (992 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18303. Sample No. 7456-H.)**

**LIBEL FILED:** September 5, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 23, 1945, by the Monticello Dairy, Inc., Charlottesville, Va.

**PRODUCT:** 16 boxes, each containing approximately 62 pounds, of butter at New York, N. Y. Analysis showed that the product contained mold.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 15, 1945. The Saal Brothers Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into refined butter oil, under the supervision of the Food and Drug Administration.

**9473. Adulteration of butter. U. S. v. 15 Boxes (945 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18313. Sample No. 7943-H.)**

**LIBEL FILED:** September 13, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 28, 1945, by the Orange Creamery, Orange, Va.

**PRODUCT:** 15 63-pound boxes of butter at New York, N. Y. Analysis showed that the product contained mold.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 16, 1945. The Orange Creamery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into refined butter oil, under the supervision of the Food and Drug Administration.

**9474. Adulteration of butter. U. S. v. 14 Boxes (630 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 18457. Sample No. 52504-H.)**

**LIBEL FILED:** October 4, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about October 1, 1945, by the Tri-State Butter Co., from Cincinnati, Ohio.

**PRODUCT:** 14 45-pound boxes of butter at Newport, Ky. Examination showed that the butter contained mold, which indicated that it was made from decomposed cream.

**LABEL, IN PART:** "Rich Pasture Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 15, 1945. The Tri-State Butter Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was converted into butter oil.

**9475. Adulteration of butter. U. S. v. 4 Cases of Butter. Default decree of condemnation. Product ordered sold for fat salvage. (F. D. C. No. 18318. Sample No. 14009-H.)**

**LIBEL FILED:** September 10, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about September 4, 1945, by the Beatrice Creamery Co., from Cincinnati, Ohio.

**PRODUCT:** 4 cases, each containing 32 pounds, of butter at Maysville, Ky. Analysis showed that the product contained mold.

**LABEL, IN PART:** "Meadow Gold Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance.

**DISPOSITION:** October 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for purposes other than for human consumption.

**9476. Adulteration of butter. U. S. v. 220 60-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19180. Sample No. 4891-H.)**

**LIBEL FILED:** December 21, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 12, 1945, by the South Mountain Dairies, Inc., from Middletown, Md.

**PRODUCT:** 220 60-pound cartons of butter at Philadelphia, Pa. Examination disclosed that portions of the product were deficient in milk fat, and that some portions were contaminated with mold.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) and (b) (2), the article was in whole or in part deficient in milk fat, and it was in whole or in part contaminated with filth.

**DISPOSITION:** January 22, 1946. The South Mountain Dairies, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the portion containing mold be converted into butter oil, and that the portion which was deficient in milk fat only be reworked. It was ordered that the Federal Security Agency supervise the carrying out of the conditions of the bond.

**9477. Adulteration of butter. U. S. v. 10 Cases and 4 Cartons (448 pounds) of Butter. Default decrees of condemnation. Product ordered delivered to charitable institutions. (F. D. C. Nos. 18319, 19428. Sample Nos. 14018-H, 41733-H.)**

**LIBELS FILED:** September 21, 1945, and January 29, 1946, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about September 12, 1945, and January 21, 1946, by the Blue Valley Creamery, from Columbus, Ohio.

**PRODUCT:** 14 32-pound containers of butter at Huntington, W. Va. Analysis showed that a portion of the product contained mold, and that the remainder was short in milk fat.

**LABEL, IN PART:** "Blue Valley Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), a portion of the product consisted in whole or in part of a filthy or decomposed substance; and, Section 402 (b) (2), the remainder of the product contained less than 80 percent by weight of milk fat and had been substituted for butter.

**DISPOSITION:** October 20, 1945, and March 18, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to the Salvation Army, conditioned that the portion which was filthy and decomposed should not be used for human consumption but be disposed of as salvage fat.

**9478. Adulteration and misbranding of butter. U. S. v. Sego Milk Products Co. (Western Creamery Co. Division). Plea of nolo contendere. Fine, \$150. (F. D. C. No. 18605. Sample Nos. 25450-H, 25481-H, 25546-H.)**

**INFORMATION FILED:** March 28, 1946, District of Idaho, against the Sego Milk Products Co., a corporation trading as the Western Creamery Co. Division, at Grace, Idaho.



**ALLEGED SHIPMENT:** Between the approximate dates of July 15 and September 27, 1945, from the State of Idaho into the State of Utah.

**PRODUCT:** Two lots of this butter, were deficient in milk fat, and one of these lots was also short of the declared weight. The third lot contained insect fragments, moth scales, and feather barbules.

**LABEL, IN PART:** (Portion) "Borden's Creamery Butter \* \* \* One Pound Net Weight."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), (portion) a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter; (remainder), Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (2), one of the low-fat lots failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** April 8, 1946. A plea of nolo contendere having been entered, the defendant was fined \$150.

**9479. Adulteration of butter. U. S. v. Redwood Creamery. Plea of guilty. Fine, \$150.** (F. D. C. No. 16507. Sample No. 19043-H.)

**INFORMATION FILED:** January 15, 1946, District of Minnesota, against the Redwood Creamery, a partnership, Redwood Falls, Minn.

**ALLEGED SHIPMENT:** On or about May 19, 1945, from the State of Minnesota into the State of New York.

**LABEL, IN PART:** (Cartons) "Redwood Fancy Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 22, 1946. A plea of guilty having been entered, the court imposed a fine of \$150.

**9480. Adulteration of butter. U. S. v. 101 Cartons of Butter (and 2 other seizure actions against butter). Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18452, 18455, 18671. Sample Nos. 7951-H, 7956-H.)

**LIBELS FILED:** On or about October 5 and 16, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 16 and 26, 1945, by P. W. & C. V. Dake, Berkshire, Vt.

**PRODUCT:** 296 cartons, each containing approximately 52 pounds, of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** October 19 and 29, 1945. The Borden Co., New York, N. Y., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9481. Adulteration of butter. U. S. v. 48 Cases (4,412 pounds, total) of Butter (and 2 other seizure actions against butter). Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18291, 18296, 18297. Sample Nos. 11573-H, 11574-H, 12321-H.)

**LIBELS FILED:** September 7 and 11, 1945, Districts of Massachusetts and New Hampshire.

**ALLEGED SHIPMENT:** On or about July 18 and 31 and September 4, 1945, by the Cabot Farmers' Cooperative Creamery Company, Inc., from Cabot, Vt.

**PRODUCT:** Butter. 48 cases (1,920 pounds) at Boston, Mass., and 37 cases (2,332 pounds) and 4 cases (160 pounds) at Keene and Laconia, N. H., respectively.

LABEL, IN PART: "Rosedale Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: October 1 and 11, 1945. The Cabot Farmers Cooperative Creamery Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be reworked under the supervision of the Federal Security Agency.

**9482. Adulteration of butter. U. S. v. 26 Cartons and 43 Boxes (4,347 pounds) of Butter. Consent decrees of condemnation. Product ordered released under bond. F. D. C. Nos. 18290, 18302. Sample Nos. 19709-H, 19811-H.)**

LIBELS FILED: September 27 and October 4, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about September 5 and 12, 1945, by the Brewster Creamery Co., Brewster, Minn.

PRODUCT: 69 63-pound boxes of butter at New York, N. Y.

LABEL, IN PART: "Butter Lewis Ebert & Sons, Inc. Distributors New York."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: October 10 and 17, 1945. Lewis Ebert & Sons, Inc., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9483. Adulteration of butter. U. S. v. 64 Cartons (approximately 4,032 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19202. Sample No. 8344-H.)**

LIBEL FILED: January 14, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about December 31, 1945, by the Farmers Creamery Co., from Pender, Nebr.

PRODUCT: 64 cartons, each containing about 63 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Butter John Doscher & Co. Distributors New York."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 26, 1946. The Standard Butter & Egg Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9484. Adulteration of butter. U. S. v. 47 Cartons (3,196 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19186. Sample No. 19422-H.)**

LIBEL FILED: November 21, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about November 7, 1945, by the Casselton Creamery Co., Casselton, Minn.

PRODUCT: 47 68-pound cartons of butter at New York, N. Y.

LABEL, IN PART: "Butter Distributed By Hunter Walton & Co. 107 New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 4, 1945. The Casselton Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.



**9485. Adulteration of butter. U. S. v. 24 Cases and 3 Cartons of Butter. Decrees of condemnation. One lot ordered released under bond; remaining lot ordered delivered to a charitable institution. (F. D. C. Nos. 19200, 19201. Sample Nos. 37912-H, 58116-H, 58118-H to 58120-H, incl.)**

**LIBELS FILED:** January 10 and 16, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about December 13 and 14, 1945, by the Montana Service Corporation, Butte, Mont.

**PRODUCT:** 24 cases and 3 cartons, each containing 60 pounds, of butter at Seattle and Tacoma, Wash., respectively.

**LABEL, IN PART:** "Goldendale [or "Cloverbloom," or "Spring Brook"] Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** On February 13, 1946, Armour & Co., claimant for the Seattle lot, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. On February 21, 1946, no claimant having appeared for the Tacoma lot, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9486. Adulteration of butter. U. S. v. 21 70-pound Cubes of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18458. Sample No. 44115-H.)**

**LIBEL FILED:** October 10, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about September 26, 1945, by the T. & O. Sales Co., from Amarillo, Tex.

**PRODUCT:** 21 70-pound cubes of butter at Los Angeles, Calif.

**LABEL, IN PART:** "Shattuck Creamery Shattuck Oklahoma."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 13, 1945. The Shattuck Community Creamery, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9487. Adulteration of butter. U. S. v. 19 Cartons (1,254 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18456. Sample No. 19722-H.)**

**LIBEL FILED:** October 22, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 2, 1945, by the Aneta Creamery & Produce Co., Aneta, N. Dak.

**PRODUCT:** 19 66-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Butter Distributed By J. R. Kramer New York N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 7, 1945. The Aneta Creamery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9488. Adulteration of butter. U. S. v. 17 Cubes (1,156 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19198. Sample No. 37227-H.)**

**LIBEL FILED:** November 7, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about July 26, 1945, by the San Juan Creamery Co., from Grand Junction, Colo.

**PRODUCT:** 17 68-pound cubes of butter at Portland, Oreg.

**LABEL, IN PART:** "Butter \* \* \* San Juan Cream Durango Colo."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which con-



tained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 4, 1945. The San Juan Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9489. Adulteration of butter. U. S. v. 16 Cartons (1,024 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19188. Sample No. 19857-H.)**

**LIBEL FILED:** On or about January 11, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 24, 1945, by the Turtle Mountain Creamery, Dunseith, N. Dak.

**PRODUCT:** 16 64-pound cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** February 9, 1946. George Wittner & Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9490. Adulteration of butter. U. S. v. 14 Boxes (896 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 18450. Sample No. 19828-H.)**

**LIBEL FILED:** October 3, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 18, 1945, by the Manannah Creamery, from Manannah, Minn.

**PRODUCT:** 14 64-pound boxes of butter at Philadelphia, Pa.

**LABEL, IN PART:** "Butter Distributed by C. G. Heyd & Co. Phila. Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 15, 1945. C. G. Heyd & Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9491. Adulteration of butter. U. S. v. 9 Cartons (576 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18292. Sample No. 19081-H.)**

**LIBEL FILED:** September 7, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 31, 1945, by the Edgerton Cooperative Creamery Co., from Edgerton, Minn.

**PRODUCT:** 9 cartons, each containing 64 pounds, of butter at Somerville, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** October 4, 1945. The Pipestone Produce Co., Somerville, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9492. Adulteration of butter. U. S. v. 9 Cartons (576 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18312. Sample No. 19803-H.)**

**LIBEL FILED:** September 5, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 22, 1945, by the Murdock Farmers Cooperative Creamery, Murdock, Minn.

**PRODUCT:** 9 cartons, each containing 64 pounds, of butter at New York, N. Y.

**LABEL, IN PART:** "Butter Distributed By Hunter Walton & Co. \* \* \* New York, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.



**DISPOSITION:** September 27, 1945. The Murdock Farmers Cooperative Creamery Association, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9493. Adulteration of butter. U. S. v. 47 Cartons of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18454. Sample No. 19721-H.)

**LIBEL FILED:** October 15, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 29, 1945, by the Farmers Union Coop. Creamery, Portland, N. Dak.

**PRODUCT:** 47 cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 13, 1945. The Farmers Union Coop. Creamery, claimant, having admitted the allegations of the libel; judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9494. Misbranding of butter. U. S. v. 66 Cases of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18289. Sample No. 24642-H.)

**LIBEL FILED:** September 19, 1945, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about August 25, 1945, by the Giles County Dairy Products Co., from Pulaski, Tenn.

**PRODUCT:** 66 cases, each containing 30 1-pound prints, of butter at Birmingham, Ala.

**LABEL, IN PART:** "1 Pound Tennessee Valley Butter."

**NATURE OF CHARGE:** Misbranding, Section 403 (a) and (e) (2), the prints did not contain "1 Pound" as labeled.

**DISPOSITION:** October 31, 1945. C. L. Runnels, individually, and as manager of the C. L. Runnels Co., Birmingham, Ala., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be labeled with the correct weight, under the supervision of the Food and Drug Administration.

#### CHEESE

**9495. Adulteration of cheese. U. S. v. 228 Pounds of Cheese (and 1 other seizure action against cheese). Default decrees of condemnation. Portion of product ordered delivered to a rendering plant; remainder ordered disposed of for hog feed.** (F. D. C. Nos. 18402, 18756. Sample Nos. 8076-H, 12330-H.)

**LIBELS FILED:** December 17, 1945, and January 3, 1946, District of Massachusetts and Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 9 and November 8, 1945, by Armour and Co., from Watertown and Binghamton, N. Y.

**PRODUCT:** 228 pounds of cheese at Fitchburg, Mass., and 16 boxes, each containing 80 pounds, of the same product at New Milford, Pa.

**LABEL, IN PART:** "Asiago Medium Vat," or "O. N. Heath Rodman, N. Y. Pure Whole Milk New-York State Washed Curd Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, rodent hair fragments, and rodent-gnawed cheese; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 28 and March 11, 1946. No claimant having appeared, judgments of condemnation were entered and the New Milford lot was ordered delivered to a charitable institution, for use as hog feed, and the Fitchburg lot was ordered delivered to a rendering plant for salvage of the fat.

**9496. Adulteration of cheese. U. S. v. 27 Bundles of Cheese. Default decree of condemnation and destruction.** (F. D. C. No. 17473. Sample Nos. 36903-H, 36904-H.)

**LIBEL FILED:** September 18, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about August 7 and 14, 1945, by the Taylor Maid Co., from Los Angeles, Calif.

**PRODUCT:** 27 bundles, each containing 4 15-pound loaves, of cheese at Seattle, Wash.

**LABEL, IN PART:** "Taylor Maid Brand Pasteurized Sandwich Loaf."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9497. Adulteration of cheese. U. S. v. 139 Boxes, 15 Boxes, and 50 Cartons of Cheese. Default decree of condemnation and destruction.** (F. D. C. No. 19107. Sample No. 24925-H.)

**LIBEL FILED:** February 8, 1946, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about August 17, 1945, by William Faehndrick, Inc., from New York, N. Y.

**PRODUCT:** 139 35-pound boxes, 15 18-pound boxes, and 50 36-pound cartons of cheese at Houston, Tex. The product contained larvae and weevils, and it was decomposed.

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy and decomposed substance.

**DISPOSITION:** March 27, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9498. Misbranding of cheese. U. S. v. 67 Boxes and 40 Boxes of Cheese. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 19484. Sample Nos. 12633-H, 12635-H, 12636-H.)

**LIBEL FILED:** April 2, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 6 and 7, 1946, by Charles Chesman, from New York, N. Y.

**PRODUCT:** 67 boxes, each containing 24 packages, and 40 boxes, each containing 12 packages, of cheese at Boston, Mass. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Chesso Brand Genuine Blue Cheese Packed By Chesso Cheese Co. New York N. Y. Net Wt.  $\frac{3}{4}$  Oz. [or "1- $\frac{1}{4}$  Oz."]."

**NATURE OF CHARGE:** Misbranding, Section 403(e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** May 13, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9499. Adulteration of Cheddar cheese. U. S. v. Almora Cooperative Cheese Factory. Plea of guilty. Fine, \$500.** (F. D. C. No. 19046. Sample No. 19078-H.)

**INFORMATION FILED:** April 8, 1946, District of Minnesota, against the Almora Cooperative Cheese Factory, a corporation, Almora, Minn.

**ALLEGED SHIPMENT:** On or about August 24, 1945, from the State of Minnesota into the State of North Dakota.

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of a housefly, fragments of houseflies and other insects, fly setae, rodent hairs, mites, feather barbules, and manure particles; and, Section 402(a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 4, 1946. A plea of guilty having been entered, the defendant was fined \$500.



**9500. Adulteration of Cheddar cheese. U. S. v. Fremont County Dairymen's Cooperative Marketing Association. Plea of guilty. Fine, \$100. (F. D. C. No. 19035. Sample Nos. 43416-H, 43417-H.)**

**INFORMATION FILED:** March 8, 1946, District of Wyoming, against the Fremont County Dairymen's Cooperative Marketing Association, a corporation, Hudson, Wyo.

**ALLEGED SHIPMENT:** On or about August 18 and 25, 1945, from the State of Wyoming into the State of California.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots, larvae, whole insects, insect fragments, feather barbules, and a rodent hair; and, Section 402(a)(4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 13, 1946. A plea of guilty having been entered, the defendant was fined \$100.

**9501. Adulteration of Cheddar cheese. U. S. v. 38 Cheddars of Cheese. Default decree of forfeiture. Product ordered sold for fish bait. (F. D. C. No. 18482. Sample No. 19519-H.)**

**LIBEL FILED:** December 3, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about November 1, 1945, by the Farmersburg Cheese Factory, from Farmersburg, Iowa.

**PRODUCT:** 38 cheddars of cheese at Fennimore, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, manure fragments, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 13, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered sold for fish bait.

## FRUITS AND VEGETABLES

### CANNED FRUIT\*

**9502. Misbranding of canned cherries. U. S. v. 299 Cases of Canned Cherries. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18205. Sample No. 29919-H.)**

**LIBEL FILED:** November 1, 1945, Territory of Hawaii.

**ALLEGED SHIPMENT:** On or about September 6, 1945, by the United Grocers, Ltd., from San Francisco, Calif.

**PRODUCT:** 299 cases, each containing 24 1-pound, 14-ounce cans, of cherries at Honolulu, T. H. This product was packed in heavy sirup and not, as labeled, "Extra Heavy Syrup." It did not contain, as required by the regulations, the maximum quantity of cherries which could be sealed in the container and processed by heat to prevent spoilage, without crushing the cherries.

**LABEL, IN PART:** "Hunts Supreme Quality Fancy Royal Anne Light Sweet Cherries In Extra Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product failed to conform to the definition and standard of identity for canned cherries since its label failed to bear the name of the optional packing medium present; and, Section 403 (h) (2), the product fell below the standard of fill of container, and it failed to bear the substandard statement on its label.

**DISPOSITION:** July 1, 1946. The Hunt Foods, Inc., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9503. Adulteration of strained peaches. U. S. v. 2 Cases of Strained Peaches. Default decrees of condemnation and destruction. (F. D. C. Nos. 18851, 18852, 19653. Sample Nos. 9680-H, 50912-H, 56067-H.)**

**LIBELS FILED:** January 29 and 30 and April 24, 1946, Western District of Pennsylvania and District of Minnesota.

\*See also No. 9590.



**ALLEGED SHIPMENT:** Between the approximate dates of October 31, 1945, and January 24, 1946, by the American Home Foods, Inc., Clapp's Baby Food Division, from Rochester, N. Y.

**PRODUCT:** 38 cases at Pittsburgh, Pa., and 66 cases at Minneapolis, Minn., each case containing 72 cans of strained peaches.

**LABEL, IN PART:** "Clapp's Strained Baby Foods Strained Peaches \* \* \* Net Weight 4½ Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect parts.

**DISPOSITION:** April 29 and May 6 and 15, 1946. No claimant having appeared, judgments were entered ordering that the Pittsburgh lots be condemned and destroyed, and that the Minneapolis lot be destroyed unless reprocessed for, and disposed of as, animal feed.

**9504. Misbranding of canned peaches. U. S. v. 198 Cases of Canned Peaches. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18332. Sample No. 7311-H.)**

**LIBEL FILED:** On or about November 9, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about September 1, 1945, by the Ver-Nal Canning Co., from Ripon, Calif.

**PRODUCT:** 198 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Newark, N. J.

**LABEL, IN PART:** "La Signora Brand \* \* \* Elberta Halves Yellow Peaches."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned peaches since the weight of the largest unit in the container was more than twice the weight of the smallest unit; since more than 20 percent of the units in the container were blemished; and since the product was not labeled as substandard.

**DISPOSITION:** March 26, 1946. The Caruso Products Distributing Corporation, Newark, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9505. Misbranding of canned peaches. U. S. v. 48 Cases of Canned Peaches. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 18389. Sample No. 1313-H.)**

**LIBEL FILED:** November 19, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 22, 1945, by Parrott and Co., from Thornton, Calif.

**PRODUCT:** 48 cases, each containing 6 6-pound, 7-ounce cans, of peaches at Jacksonville, Fla. Examination showed that the peaches consisted of peeled, mixed pieces of irregular sizes and shapes, packed in water.

**LABEL, IN PART:** (Cases) "Unl. Reg. Pie Y. C. Peaches Lt. Syrup." The cans were unlabeled when shipped.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label of statement "Lt. Syrup" was false and misleading as applied to an article packed in water; Section 403 (e), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the label of the article failed to bear, as required by the regulations prescribing a definition and standard of identity for canned peaches, the name of the food, preceded or followed by the name of the optional peach ingredient present, as well as the name of the optional packing medium present.

**DISPOSITION:** February 9, 1946. No claimant having appeared, judgement of condemnation was entered and the product was ordered delivered to a public institution.

**9506. Misbranding of canned peaches. U. S. v. 27 Cases of Canned Peaches. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18708. Sample No. 30039-H.)**

**LIBEL FILED:** January 2, 1946, Eastern District of New York.



**ALLEGED SHIPMENT:** On or about October 30, 1945, from San Francisco, Calif., by the Sunset Fruit Co.

**PRODUCT:** 27 cases, each containing 6 6-pound, 10-ounce cans, of peaches at Brooklyn, N. Y.

**LABEL, IN PART:** "Baker's Best Brand Solid Pack Yellow Cling Peaches \* \* \* Packed By Harter Packing Company Yuba City California."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Solid Pack Yellow Cling Peaches," was false and misleading as applied to the product, which consisted of halves of peaches packed in water; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peach halves since the standard requires that all units be untrimmed, or so trimmed as to preserve their normal shape, whereas all peach units of the article were not untrimmed, or so trimmed as to preserve their normal shape, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** May 15, 1946. The Harter Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9507. Misbranding of canned pears. U. S. v. 65 Cases of Canned Pears. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18836. Sample No. 882-H.)**

**LIBEL FILED:** January 11, 1946, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about November 7, 1945, by Schuckl and Co., Inc., from Sunnyvale, Calif.

**PRODUCT:** 65 cases, each containing 24 1-pound, 12-ounce cans, of pears at Albany, Ga.

**LABEL, IN PART:** "Regular Brand Halved Bartlett Pears."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard in quality since all the pear units were not untrimmed, or so trimmed as to preserve their normal shape, and the label failed to bear a substandard legend, as is required by the regulations.

**DISPOSITION:** February 6, 1946. The C. D. Kenny Division, Consolidated Grocers Corporation, Baltimore, Md., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

#### DRIED FRUIT

**9508. Adulteration of dried fruit. U. S. v. Albert Asher (Albert Asher Co.). Plea of nolo contendere. Fine, \$250. (F. D. C. No. 18591. Sample Nos. 60643-F, 60648-F, 70646-F, 73006-F, 83555-F.)**

**INFORMATION FILED:** January 14, 1946, Northern District of California, against Albert Asher, trading as the Albert Asher Co., San Francisco, Calif.

**ALLEGED SHIPMENT:** Between the approximate dates of April 1 and October 20, 1944, from the State of California into the States of Nevada and Washington.

**LABEL, IN PART:** (Portion) "Santa Clara Prunes," "Bon Ton California Santa Clara Prunes," "Progreso Brand Choice California Black Figs," or "Whole Cling [or "Unpitted Special"] Peaches."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect pellets, insects, insect excreta, insect fragments, rodent hairs, and rodent excreta; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 11, 1946. A plea of nolo contendere having been entered, the defendant was fined \$250.

**9509. Adulteration of dried fruit. U. S. v. 373 Boxes of Dried Fruit. Default decree of condemnation and destruction. (F. D. C. No. 19205. Sample No. 1083-H.)**

**LIBEL FILED:** February 15, 1946, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about August 23 and September 5, 1945, by Cayol Foods, from Minneapolis, Minn.

**PRODUCT:** 210 8-ounce, 56 1-pound, 68 1½-pound, and 39 3-pound boxes of dried fruit at Greenville, S. C.

**LABEL, IN PART:** "Tree Ripened Honey Dipt Assorted California and Tropical Fruits."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, and insect excreta.

**DISPOSITION:** March 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9510. Adulteration of dried apple pieces. U. S. v. 849 Bags of Dried Apple Pieces. Product ordered released under bond. (F. D. C. No. 19108. Sample No. 23639-H.)**

**LIBEL FILED:** On or about February 8, 1946, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about December 2, 1944, by the Battletown Fruit Co., from Staunton, Va.

**PRODUCT:** 849 30-pound bags of dried apple pieces at Houston, Tex. Examination showed that the product was moldy.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 8, 1946. The court ordered the release of the product under bond to the claimant, conditioned that the unfit portion be segregated and destroyed, or otherwise disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**9511. Adulteration of dates. U. S. v. 607 Boxes of Dates. Default decree of condemnation and destruction. (F. D. C. No. 17526. Sample No. 49006-H.)**

**LIBEL FILED:** On or about February 28, 1946, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about November 24, 1945, by the Pacific Distributors, from Coachella, Calif.

**PRODUCT:** 607 boxes of dates at New Orleans, La. Examination showed that the product was insect-infested, and that it contained beetles and larvae.

**LABEL, IN PART:** "Desert Glo Dates \* \* \* Packed by Desert Glo Date Products Co. Los Angeles, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** May 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9512. Adulteration of dates. U. S. v. 414 Cases of Dates. Default decree of condemnation and destruction. (F. D. C. No. 18826. Sample No. 17773-H.)**

**LIBEL FILED:** January 22, 1946, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 6, 1945, by the Covalda Date Co., from Coachella, Calif.

**PRODUCT:** 414 cases of dates at Chicago, Ill.

**LABEL, IN PART:** "Choice Khawdrawi Grown in California 12 Lbs. Net Weight Sun Gold Gardens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** June 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9513. Adulteration of macerated dates. U. S. v. 98 Boxes and 181 Boxes of Macerated Dates. Consent decrees of condemnation and destruction. (F. D. C. Nos. 17687, 17688. Sample Nos. 16775-H, 16778-H.)**

**LIBEL FILED:** October 10, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 30, 1945, by J. H. Gary and Co., from San Francisco, Calif.

**PRODUCT:** 279 40-pound boxes of macerated dates at Chicago, Ill.

**LABEL, IN PART:** "Oasis Brand Macerated Dates."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** January 15 and February 15, 1946. The claimant for the 98 boxes having consented to the entry of a decree, and no claim having been made for the remaining lot, judgments of condemnation were entered and the product was ordered destroyed.

**9514. Adulteration of figs. U. S. v. 35 Cases and 73 Cases of Figs (and 7 other seizure actions against figs). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed.** (F. D. C. Nos. 17545, 19150, 19151, 19273, 19316 to 19318, incl., 19335 to 19337, incl., 19371 to 19373, incl. Sample Nos. 21579-H, 25673-H, 27156-H, 27158-H, 28576-H, 28577-H, 47088-H, 47110-H, 47326-H, 47331-H, 47332-H, 47334-H, 47336-H, 47707-H, 47709-H.)

**LIBELS FILED:** Between February 19 and March 22, 1946, Western District of Washington, District of Colorado, and District of Nebraska.

**ALLEGED SHIPMENT:** Between the approximate dates of November 14 and December 11, 1945, by the California Packing Corporation, from Fresno, Calif.

**PRODUCT:** Figs. 35 cases, each containing 24 1-pound packages, and 73 cases, each containing 24 8-ounce packages, at Bellingham, Wash.; 1,400 50-pound cases at Omaha, Nebr.; and 432 25-pound cases, 64 cases, each containing 24 8-ounce packages, and 118 cases, each containing 24 12-ounce packages, at Denver, Colo.

**LABEL, IN PART:** "Sphinx Brand Naturalpak Black Mission Figs [or "Roeding's Fancy Quality Sphinx Brand Black Figs Extra Choice Sound & Clean," or "Arabian Brand Calif. Figs.]" Packed by Roeding Fig Co., Fresno, Calif.," "Roeding's Sun Dried Natural California Figs \* \* \* Arabian Brand White Figs," "California Fruits \* \* \* Sphinx Brand Black Figs Packed by Roeding Fig Co. Fresno Calif.," "California Fruits \* \* \* Silver Band Brand Fancy Black Figs," "Sphinx Brand Black Figs Extra Fancy Packed by Roeding Fig Co. Fresno Calif.," "Arabian Brand White Figs \* \* \* Packed by Roeding Fig Co.," "Silver Band Brand Fancy White Figs," or "Roeding's Finest Naturalpak Black Mission Figs Packed by Roeding Fig & Olive Co., Fresno, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance, by reason of the presence of insect-infested figs, and a decomposed substance, as evidenced by the presence of moldy and sour figs.

Misbranding, Section 403 (a), the statement "Sound and Clean," appearing on the label of one of the Denver lots, was false and misleading as applied to insect-infested, moldy, and sour figs.

**DISPOSITION:** Between March 26 and May 10, 1946, the Roeding Fig. Co., claimant, having consented to the entry of decrees against the Nebraska and Washington lots, and no claimant having appeared for the other lots, judgments of condemnation were entered. It was ordered that the product in the Nebraska and Washington lots be released under bond for segregation of the fit from the unfit portion, or that it otherwise be brought into compliance with the law, and that the product in the other lots be destroyed.

**9515. Adulteration of raisins. U. S. v. 218 Cases of Raisins. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19302. Sample No. 58201-H.)

**LIBEL FILED:** March 7, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about January 3, 1946, by the Ryan Grocery Co., from Billings, Mont.

**PRODUCT:** 218 cases, each containing 30 pounds, of raisins at Del Rey, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of fermented raisins.

**DISPOSITION:** April 16, 1946. Nerces Azadian, trading as the Central California Packing Co., Del Rey, Calif., claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be used for distilling purposes, under the supervision of the Food and Drug Administration.



- 9516. Adulteration of raisins. U. S. v. 81 Boxes of Raisins. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as hog feed.** (F. D. C. No. 17733. Sample No. 1205-H.)
- LIBEL FILED:** November 21, 1945, Northern District of Florida.
- ALLEGED SHIPMENT:** On or about October 28, 1944, by the Rosenberg Brothers and Co., from San Francisco, Calif.
- PRODUCT:** 81 boxes of raisins at Tallahassee, Fla.
- LABEL, IN PART:** (Box) "20 Lbs. Net Ensign Brand 3 Crown Layer Raisins."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and insect excreta.
- DISPOSITION:** May 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as hog feed.
- 9517. Adulteration of raisins. U. S. v. 78 Cases of Raisins. Default decree of condemnation and destruction.** (F. D. C. No. 17190. Sample No. 36624-H.)
- LIBEL FILED:** August 24, 1945, Western District of Washington.
- ALLEGED SHIPMENT:** On or about November 14, 1944, from Dinuba, Calif.
- PRODUCT:** 78 30-pound cases of raisins at Seattle, Wash., in the possession of the Standard Warehouse. The product was stored under insanitary conditions after shipment. Some of the cartons were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets, rodent hairs, and insect fragments.
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402(a)(4), it had been held under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.
- 9518. Adulteration of raisins. U. S. v. 75 Cases of Raisins. Decree of condemnation and destruction.** (F. D. C. No. 19300. Sample No. 25672-H.)
- LIBEL FILED:** March 11, 1946, District of Colorado.
- ALLEGED SHIPMENT:** On or about November 14, 1945, by the Calavo Company, from Chicago, Ill.
- PRODUCT:** 75 cases, each containing 20 15-ounce packages, of raisins at Denver, Colo.
- LABEL, IN PART:** "California Muscat Cluster Raisins."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and fermented raisins.
- DISPOSITION:** May 2, 1946. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.
- 9519. Adulteration of raisins. U. S. v. 55 Cartons of Raisins. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as hog feed.** (F. D. C. No. 18377-A. Sample Nos. 1323-H to 1325-H, incl.)
- LIBEL FILED:** December 1, 1945, Northern District of Florida.
- ALLEGED SHIPMENT:** On or about January 24 and March 14, 1945, by the Southeastern Bakers Supply Co., from Atlanta, Ga.
- PRODUCT:** 65 30-pound cartons of raisins at Apalachicola, Fla.
- LABEL, IN PART:** "Thompson Seedless Raisins Packed by Vagim Packing Co. Fresno, Calif.," "Dessert Brand Choice Recleaned Thompson Seedless Raisins California Packing Corporation San Francisco, California," or "Wesco Brand California Choice Thompson Seedless Raisins Packed by West Coast Growers and Packers Fresno, Calif."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in



whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect excreta pellets.

**DISPOSITION:** May 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as hog feed.

#### FRESH AND FROZEN FRUIT

**Nos. 9520 to 9533** report actions involving apples that bore a spray residue that contained lead or arsenic, or both, which may have rendered them injurious to health.

**9520. Adulteration of apples. U. S. v. 1,008 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19181. Sample No. 5799-H.)**

**LIBEL FILED:** November 23, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 5, 1945, by the Aptos Fruit Co., from Watsonville, Calif.

**PRODUCT:** 1,008 boxes of apples at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained added poisonous ingredients, lead and arsenic, which may have rendered it injurious to health.

**DISPOSITION:** December 7, 1945. The Safeway Stores, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the spray residue be removed by peeling the apples under the supervision of the Food and Drug Administration.

**9521. Adulteration of apples. U. S. v. 34,000 Pounds of Apples. Default decree of condemnation and destruction. (F. D. C. No. 19184. Sample No. 10657-H.)**

**LIBEL FILED:** November 16, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about October 18, 1945, by the Munsey Fruit Farm, from Marsing, Idaho.

**PRODUCT:** 34,000 pounds of apples in bulk at Holley, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained added poisonous or deleterious substances, arsenic and lead, which may have rendered it injurious to health.

**DISPOSITION:** December 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9522. Adulteration of apples. U. S. v. 980 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19185. Sample No. 10847-H.)**

**LIBEL FILED:** December 12, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about November 6, 1945, by the Matiasevich Bros., from Watsonville, Calif.

**PRODUCT:** 980 boxes, each containing 42 pounds, of apples at East Williamson, N. Y.

**LABEL, IN PART:** "Dewsweet Brand Pajaro Valley Apples."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained added poisonous or deleterious substances, arsenic and lead, which may have rendered it injurious to health.

**DISPOSITION:** January 7, 1946. The Eber Bros. & Co., Inc., Rochester, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be washed and cleaned under the supervision of the Food and Drug Administration.

**9523. Adulteration of apples. U. S. v. 622 Bushels of Apples (and 2 other seizure actions against apples). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 18442, 18444, 18445. Sample Nos. 23486-H, 35203-H, 35208-H.)**

**LIBELS FILED:** On or about October 15 and 19, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of September 5 and October 15, 1945, by the Sunrise Orchards, from Brussels, Ill.

**PRODUCT:** 908 bushels of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 27, 1945. The cases having been consolidated, and the Fruit Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9524. Adulteration of apples. U. S. v. 461 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19182. Sample No. 8174-H.)**

**LIBEL FILED:** December 11, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about November 12, 1945, by Lapidus and Nutting, from Watsonville, Calif.

**PRODUCT:** 461 40-pound boxes of apples at New York, N. Y.

**LABEL, IN PART:** "L & N Brand Apples."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained added poisonous ingredients, lead and arsenic, which may have rendered it injurious to health.

**DISPOSITION:** December 17, 1945. The Moss Produce, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the spray residue be removed by peeling the apples under the supervision of the Food and Drug Administration.

**9525. Adulteration of apples. U. S. v. 350 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18438. Sample No. 23492-H.)**

**LIBEL FILED:** October 25, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 11, 1945, by Herman Phillips, from Grafton, Ill.

**PRODUCT:** 350 bushel baskets of apples at St. Louis, Mo.

**LABEL, IN PART:** "U. S. Winesaps \* \* \* Nugent & Schapanski Grafton, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 15, 1945. The United Fruit & Produce Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9526. Adulteration of apples. U. S. v. 325 Baskets of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18448. Sample No. 35209-H.)**

**LIBEL FILED:** October 18, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 15, 1945, by the Schultz Packing House, from Batchtown, Ill.

**PRODUCT:** 325 bushel baskets of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 27, 1945. The Cicardi Brothers Fruit & Produce Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.



**9527. Adulteration of apples. U. S. v. 150 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18440. Sample Nos. 35212-H, 35213-H.)

**LIBEL FILED:** October 25, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 8, 1945, by O. R. Shoaf, from Golden Eagle, Ill.

**PRODUCT:** 150 bushels of apples at St. Louis, Mo.

**LABEL, IN PART:** "Golden Delicious \* \* \* Grown & Packed by Henry Jacobs Golden Eagle, Illinois."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 15, 1945. O. R. Shoaf, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9528. Adulteration of apples. U. S. v. 153 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18447. Sample No. 23488-H.)

**LIBEL FILED:** October 23, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 6, 1945, by G. W. Wieneke & Son, from Fieldon, Ill.

**PRODUCT:** 153 bushels of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 27, 1945. The Cicardi Brothers Fruit & Produce Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9529. Adulteration of apples. U. S. v. 28 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18446. Sample No. 23489-H.)

**LIBEL FILED:** On or about October 25, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 20, 1945, by P. W. Wieneke, from Golden Eagle, Ill.

**PRODUCT:** 28 bushels of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 27, 1945. The Cicardi Brothers Fruit & Produce Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9530. Adulteration of apples. U. S. v. 51 Bushels of Apples. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 18279. Sample No. 23478-H.)

**LIBEL FILED:** September 17, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 13, 1945, by Albert Kinder, from Brussels, Ill.

**PRODUCT:** 51 bushels of apples at St. Louis, Mo.

**LABEL, IN PART:** "Golden Delicious \* \* \* Cicardi Bros. Fruit & Produce Co. St. Louis, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 2, 1945. No claimant having appeared, judgment of condemnation was entered and the apples were ordered delivered to a charitable institution, conditioned that they be peeled and the peelings and cores destroyed, under the supervision of the Food and Drug Administration.

**9531. Adulteration of apples. U. S. v. 41 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18443. Sample No. 23481-H.)**

**LIBEL FILED:** October 16, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 20, 1945, by Fred Jacobs, from Golden Eagle, Ill.

**PRODUCT:** 41 bushels of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 27, 1945. The Cicardi Brothers Fruit & Produce Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9532. Adulteration of apples. U. S. v. 24½ Bushels of Apples. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18280. Sample No. 23068-H.)**

**LIBEL FILED:** On or about September 12, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 5, 1945, by Henry Jacobs, from Golden Eagle, Ill.

**PRODUCT:** 24½ bushels of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** October 15, 1945. No claimant having appeared, judgment of condemnation was entered and the apples were ordered delivered to a charitable institution, conditioned that they be peeled and the peelings and cores destroyed under the supervision of the Food and Drug Administration.

**9533. Adulteration of apples. U. S. v. 24 Bushels of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18441. Sample No. 23456-H.)**

**LIBEL FILED:** October 12, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 24 and October 8, 1945, by Emil \* Klaas, from Batchtown, Ill.

**PRODUCT:** 24 bushels of apples at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

**DISPOSITION:** November 27, 1945. The Cicardi Brothers Fruit & Produce Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9534. Adulteration of frozen cherries. U. S. v. 368 Cartons of Frozen Cherries. Default decree of condemnation and destruction. (F. D. C. No. 18471. Sample No. 7991-H.)**

**LIBEL FILED:** November 29, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about July 18, 1945, by the Associated Frozen Food Packers, Inc., from Albany, Oreg.

**PRODUCT:** 368 cartons, each containing 5 8-pound packages, of frozen cherries at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots.

**DISPOSITION:** January 28, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9535. Misbranding of frozen cherries. U. S. v. Farmers Cooperative Union, Inc. Plea of nolo contendere. Fine, \$225 and costs.** (F. D. C. No. 15568. Sample Nos. 73875-F, 74159-F, 74161-F.)

**INFORMATION FILED:** November 16, 1945, Western District of Washington, against the Farmers Cooperative Union, Inc., Puyallup, Wash.

**ALLEGED SHIPMENT:** On or about September 6 and 19, 1944, from the State of Washington into the State of California.

**LABEL, IN PART:** "R. S. P. 4-1 Cherries."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "R. S. P. Cherries" was false and misleading since it represented and suggested that the product consisted of red, sour pitted cherries when, in fact, it consisted of partially pitted cherries.

**DISPOSITION:** April 12, 1946. A plea of nolo contendere having been entered, the defendant was fined \$225, plus costs.

**9536. Misbranding of frozen cherries. U. S. v. R. D. Pringle & Co. Plea of guilty. Fine, \$100.** (F. D. C. No. 19032. Sample Nos. 30889-H, 30890-H.)

**INFORMATION FILED:** February 28, 1946, District of Utah, against R. D. Pringle & Co., a partnership, Ogden, Utah.

**ALLEGED SHIPMENT:** On or about July 27 and 30, 1945, from the State of Utah into the State of California

**LABEL, IN PART:** (Portion) "Little Farmer Brand Fresh Frozen Pitted Windsor Cherries." The remainder of the cans bore no labeling.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement on a number of the cans, "Net Wt. 30 Lbs. When Packed," was false and misleading since the cans contained less than 30 pounds of cherries; Section 403 (e) (1), a number of the cans failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (e) (2), all cans of the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 9, 1946. A plea of guilty having been entered, the court imposed a fine of \$50 on each of the 2 counts of the information.

**9537. Adulteration of frozen peaches. U. S. v. 569 Cans of Frozen Peaches. Default decree of condemnation and destruction.** (F. D. C. No. 17191. Sample No. 24820-H.)

**LIBEL FILED:** August 25, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about July 18, 1945, by the Craddock Canning and Preserving Co., from Paducah, Ky.

**PRODUCT:** 569 cans, each containing 26 pounds, of frozen peaches at New Orleans, La.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### MISCELLANEOUS FRUIT PRODUCTS

**9538. Adulteration and misbranding of diced, glazed fruit. U. S. v. 89 Cases of Diced Glazed Fruit (and 4 other seizure actions against diced, glazed fruit). Decrees of condemnation. One lot ordered released under bond; two lots ordered delivered to a Federal penitentiary; remainder ordered destroyed.** (F. D. C. Nos. 17432, 17689, 17690, 18511, 19299. Sample Nos. 21117-H, 21124-H, 21669-H, 36592-H, 37456-H.)

**LIBELS FILED:** September 7, October 1 and 8, and December 10, 1945, and March 6, 1946, Eastern and Western Districts of Oklahoma, Northern District of Illinois, and Western District of Washington.

**ALLEGED SHIPMENT:** Between the approximate dates of July 24 and August 29, 1945, by the Chicago Smoked Fish Co., from Chicago, Ill., and Muskogee, Okla.

**PRODUCT:** Diced, glazed fruit. 89 cases, each containing 12 jars, at Muskogee, Okla.; 3 cases, each containing 24 jars, at El Reno, Okla.; 48 cases, each containing 24 jars, at Chicago, Ill.; and 3,213 jars, and 719 cases, each containing 12 jars, at Seattle, Wash.

Examination showed that the Muskogee lot consisted essentially of diced, candied fruit peel with very few cherries, and that it was short-weight; that



the other lots contained filth, such as rodent hairs, insects, mites, or insect fragments; and that the Seattle lots were also short-weight.

**LABEL, IN PART:** (Muskogee lot) "Little Women Diced Glazed Fruit \* \* \* Net Weight 8 Oz. [or "16 Oz."] Packed by Golden America Food Prod. Co., Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), all lots, with the exception of the lot at Muskogee, consisted in whole or in part of filthy substances.

Misbranding, Section 403 (a), the designation of the lot at Muskogee, "Diced Glazed Fruit," was false and misleading as applied to the article, which consisted essentially of diced fruit peel; and, Section 403 (e) (2), the lots at Muskogee and Seattle failed to bear labels containing an accurate statement of the quantity of the contents.

**DISPOSITION:** October 23 and November 20, 1945, and January 7, April 4, and May 31, 1946. The sole intervener in the Chicago case, and the Chicago Smoked Fish Co., claimant for the lot at Muskogee, having consented to the entry of decrees, and no claimant having appeared for the other lots, judgments of condemnation were entered. It was ordered that the Muskogee lot be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency; that the Seattle lots be delivered to a Federal penitentiary; and that the other lots be destroyed.

**9539. Adulteration of peach flow. U. S. v. Pure Foods Corporation and Harold Fisch. Pleas of nolo contendere. Fines, \$500 against each defendant. (F. D. C. No. 17778. Sample Nos. 74186-F, 74187-F.)**

**INFORMATION FILED:** April 23, 1946, Southern District of California, against the Pure Foods Corporation, Los Angeles, Calif., and Harold Fisch, president of the corporation.

**ALLEGED SHIPMENT:** On or about November 7, 1944, from the State of California into the States of Illinois and New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed peach material.

**DISPOSITION:** April 25, 1946. Pleas of nolo contendere having been entered, the court fined each defendant \$250 on each of the 2 counts of the information.

**9540. Adulteration of red raspberry puree. U. S. v. 74 Cans of Red Raspberry Puree. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18520. Sample No. 19729-H.)**

**LIBEL FILED:** December 1, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about October 11, 1945, by the Sunshine Packing Corporation, from North East, Pa.

**PRODUCT:** 74 45-pound cans of red raspberry puree at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy raspberry material.

**DISPOSITION:** June 10, 1946. The Sunshine Packing Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of reconditioning it for distillation purposes, under the supervision of the Federal Security Agency.

**9541. Adulteration of frozen strawberry puree. U. S. v. 804 Cartons and 309 Cans of Strawberry Puree. Decrees of condemnation. Product ordered destroyed or disposed of as animal feed. (F. D. C. Nos. 16495, 16692. Sample Nos. 2898-H, 4533-H.)**

**LIBELS FILED:** June 27, 1945, Middle District of Pennsylvania, and July 9, 1945, District of Columbia.

**ALLEGED SHIPMENT:** On or about May 19 and 25, 1945, by The Southland Products Co., from Plant City, Fla.

**PRODUCT:** 804 45-pound cartons and 309 45-pound cans of frozen strawberry puree at Washington, D. C., and Harrisburg, Pa., respectively. The product contained decomposed strawberries.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 1 and 8, 1945 The Southland Products Co., claimant for the Washington lot, having consented to the entry of a decree, and the claimant for the Harrisburg lot having withdrawn its claim, judgments of condemnation were entered and the product was ordered destroyed or disposed of as animal feed.

**9542. Adulteration and misbranding of vinegar. U. S. v. 43 Cartons of Vinegar. Default decree of condemnation and destruction. (F. D. C. No. 19178. Sample No. 9114-H.)**

**LIBEL FILED:** February 11, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 2, 1946, by the Acierno Brothers, Inc., from Brooklyn, N. Y.

**PRODUCT:** 43 cartons, each containing 12 bottles, of vinegar at Newark, N. J.

**LABEL, IN PART:** "Contents 1 Quart Zucca Pure Wine Vinegar."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for pure wine vinegar; and, Section 402 (b) (4), distilled vinegar or acetic acid had been added to the product and mixed and packed with it so as to reduce its quality or strength.

Misbranding, Section 403 (a), the label statement "Pure Wine Vinegar" was false and misleading; and, Section 403 (e) (2), the label failed to bear an accurate statement of the quantity of the contents since the bottles contained less than 1 quart.

**DISPOSITION:** March 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9543. Adulteration and misbranding of wine vinegar. U. S. v. 17 and 13 Cases of Wine Vinegar. Default decree of condemnation and destruction. (F. D. C. No. 18371. Sample No. 4649-H.)**

**LIBEL FILED:** November 9, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 14, 1945, by the Muro Importing Co., from Brooklyn, N. Y.

**PRODUCT:** 17 cases, each containing 12 1-quart bottles, and 13 cases, each containing 24 1-pint bottles, of wine vinegar at Philadelphia, Pa.

**LABEL, IN PART:** (Bottle) "Muro Pure Wine Vinegar."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for pure wine vinegar, which the article was represented to be; and, Section 402 (b) (4), distilled vinegar or acetic acid had been added to the article and mixed and packed with it so as to reduce its quality or strength.

Misbranding, Section 403 (a), the statement on the label of the article, "Pure Wine Vinegar," was false and misleading.

**DISPOSITION:** January 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**VEGETABLES AND VEGETABLE PRODUCTS**

**9544. Adulteration of frozen asparagus. U. S. v. 1,095 Cartons of Frozen Asparagus. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17685. Sample Nos. 16113-H, 16114-H, 16116-H, 16117-H.)**

**LIBEL FILED:** October 10, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** August 9, 1945, by the Midfield Packers, from Tacoma, Wash.

**PRODUCT:** 932 25-pound cartons and 163 20-pound cartons of frozen asparagus at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** January 8, 1946, Ginocchio Bros., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the separation of the good portion from the bad, under the supervision of the Food and Drug Administration, and the disposition of both in compliance with the law.



**9545. Adulteration of canned beans in tomato sauce. U. S. v. 50 Cases of Canned Beans in Tomato Sauce. Decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 19291. Sample No. 30392-H.)**

**LIBEL FILED:** March 8, 1946, District of Wyoming.

**ALLEGED SHIPMENT:** On or about November 29, 1945, by the Farrow Mercantile Co., from Denver, Colo.

**PRODUCT:** 50 cases, each containing 24 20-ounce cans, of beans in tomato sauce at Cheyenne, Wyo.

**LABEL, IN PART:** "Harvest Treasure Beans in Tomato Sauce \* \* \* Packed by Norfolk Packing Co., Norfolk and Plattsmouth, Nebr.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), small rocks had been substituted in whole or in part for beans in tomato sauce; and, Section 402 (b) (4), they had been packed with the article so as to reduce its quality.

**DISPOSITION:** April 17, 1945. The Norfolk Packing Co., Plattsmouth, Nebr., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to the American Legion, the beans to be disposed of for charitable purposes, with the understanding that the consumer be informed of the presence of the small rocks.

**9546. Adulteration of canned beans with pork. U. S. v. 247 Cases of Canned Beans with Pork. Default decree of condemnation and destruction. (F. D. C. No. 18647. Sample No. 8321-H.)**

**LIBEL FILED:** December 13, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about October 19, 1945, by the Springfield Sugar and Products Co., from Springfield, Mass.

**PRODUCT:** 247 cases, each containing 24 1-pound, 14-ounce cans, of pork with beans at Maspeth, Long Island.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9547. Adulteration of mung beans. U. S. v. 200 Bags of Mung Beans. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18264. Sample No. 8026-H.)**

**LIBEL FILED:** November 2, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 23, 1945, by the Lipscomb Brothers, Adair, Okla.

**PRODUCT:** 200 100-pound bags of mung beans at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils.

**DISPOSITION:** November 27, 1945. Robert E. L. Snelsen, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by fumigating, blowing, screening, and sifting, under the supervision of the Food and Drug Administration.

**9548. Adulteration of dried pea beans. U. S. v. 155 Bags of Dried Pea Beans. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18400. Sample No. 12355-H.)**

**LIBEL FILED:** November 19, 1945, District of New Hampshire.

**ALLEGED SHIPMENT:** On or about September 27, 1945, by Vanderveer and Coleman, Inc., from Lyons, N. Y.

**PRODUCT:** 155 100-pound bags of dried pea beans at Manchester, N. H.

**LABEL, IN PART:** "New York State Cockerel Brand Pea Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy beans.

**DISPOSITION:** December 28, 1945. The Silver Bros. Co., Inc., Manchester, N. H., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.



**9549. Adulteration of dried mushrooms. U. S. v. 27 Cases and 1 Case of Dried Mushrooms. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18480. Sample No. 30040-H.)**

**LIBEL FILED:** November 29, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about July 25, 1945, by the J. Ossola Co., from New York, N. Y.

**PRODUCT:** 28 25-pound cases of dried mushrooms at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of mites.

**DISPOSITION:** January 31, 1946. Wesley K. Oyama, San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portion was segregated and denatured.

**9550. Adulteration of dried mushrooms. U. S. v. 12 Cases of Dried Mushrooms. Default decree of condemnation and destruction. (F. D. C. No. 19157. Sample No. 16079-H.)**

**LIBEL FILED:** February 20, 1946, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about December 10, 1945, and January 12, 1946, by the Royal Spice Distributors, from Cicero, Ill.

**PRODUCT:** 12 cases, each containing 12 cards of 12 bags each, of dried mushrooms at Detroit, Mich. Examination showed that the product contained maggots.

**LABEL, IN PART:** Royal Brand Universal Selected Mushrooms Dehydrated."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3).

**DISPOSITION:** April 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9551. Adulteration of dried mushrooms. U. S. v. 4 Cases of Dried Mushrooms. Default decree of condemnation and destruction. (F. D. C. No. 18479. Sample No. 26269-H.)**

**LIBEL FILED:** November 29, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about September 29, 1945, by the Modern Food Products Co., from San Francisco, Calif.

**PRODUCT:** 4 25-pound cases of dried mushrooms at Denver, Colo.

**LABEL, IN PART:** "Rey Valparaiso Producto De Chili."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms, mites, and insect parts.

**DISPOSITION:** January 23, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

Nos. 9552 to 9570 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality fell below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

**9552. Misbranding of canned peas. U. S. v. 1,847 Cases and 547 Cases of Canned Peas. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 18258, 18381. Sample Nos. 3135-H, 3139-H, 43232-H.)**

**LIBELS FILED:** November 8 and 13, 1945, Eastern District of Virginia and the District of Columbia.

**ALLEGED SHIPMENT:** On or about September 20 and 26, 1945, by the Lord Mott Co., Inc., from Baltimore, Md.

**PRODUCT:** 1,847 cases, each containing 24 20-ounce cans, and 567 cases, each containing 6 6-pound, 9-ounce cans, of peas at Richmond, Va., and Washington, D. C.

**LABEL, IN PART:** "Old Reliable Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was substandard in quality.

**DISPOSITION:** November 29 and December 3, 1945. Claims having been entered for the product, and the claimant having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling in compliance with the law, under the supervision of the Food and Drug Administration.

**9553. Misbranding of canned peas. U. S. v. 406 Cases and 1,748 Cases of Canned Peas. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 18530, 19009. Sample Nos. 14236-H, 14238-H, 14332-H.)

**LIBELS FILED:** December 4, 1945, and February 1, 1946, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about July 21 and August 18, 1945, by the Richland Canning Corp., from Friesland, Wis.

**PRODUCT:** 406 cases and 1,748 cases, each case containing 24 1-pound, 4-ounce cans, of peas at Vincennes and Evansville, Ind., respectively.

**LABEL, IN PART:** "Fort Sackville Brand Early June Peas," or "Brookdale Early Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** January 4 and March 4, 1946. The Richland Canning Corporation, claimant, having admitted the facts set forth in the libels, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**9554. Misbranding of canned peas. U. S. v. 1,774 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 18981. Sample No. 18093-H.)

**LIBEL FILED:** January 23, 1946, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 25, 1945, by the Riverview Canning Corporation, from Fall River, Wis.

**PRODUCT:** 1,774 cases, each containing 24 1-pound, 4-ounce cans, of peas at Chicago, Ill.

**LABEL, IN PART:** The cans were unlabeled when shipped. They were being labeled: "Way Ahead Wisconsin Early Peas \* \* \* Packed by Riverview Canning Corp., Fall River, Wis." The cases were stenciled "Std. 3 Alaska."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was substandard in quality; Section 403 (e) (1), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the label failed to bear, as required by the regulations, the name of the food specified in the definition and standard of identity for canned peas.

**DISPOSITION:** March 1, 1946. The Riverview Canning Corporation, claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9555. Misbranding of canned peas. U. S. v. 1,732 Cases of Canned Peas (and 4 other seizure actions against canned peas). Consent decrees of condemnation. Product ordered released under bond to be relabeled.** (F. D. C. Nos. 17539, 18189, 18206, 18466, 18639. Sample Nos. 3660-H, 14476-H, 21530-H, 43231-H, 52421-H, 52511-H.)

**LIBELS FILED:** Between October 22, 1945, and February 26, 1946, Northern and Southern Districts of Ohio, District of Maryland, Eastern District of Virginia, and District of Nebraska.

**ALLEGED SHIPMENT:** Between the approximate dates of July 31 and August 25, 1945, by the Stoughton Canning Co., Stoughton, Wis.

**PRODUCT:** Canned peas. 1,732 cases at Toledo, Ohio, 898 cases at Ironton, Ohio, 900 cases at Baltimore, Md., 547 cases at Richmond, Va., and 1,128 cases at Lincoln, Nebr. Each case contained 24 cans of peas.



**LABEL, IN PART:** (Portions) "Upper Deck Wisconsin Peas \* \* \* Contents 1 lb. 4 oz. Fall River Canning Co. Distributors Fall River, Wisconsin," "Iona Early June Peas Large Size Net Wt. 1 Lb. 4 Ozs. Standard Quality Grade C," or "Wiscos Brand Early June Peas Size 4 Contents 1 Lb. 4 Oz. Distributed by Fall River Canning Co. Fall River, Wis." Two of the shipments were unlabeled. One of the unlabeled lots was invoiced "Std #4 Alaska." The other unlabeled lot was labeled by the consignee as "Selected Early June Peas." No written agreement existed between the shipper of the last lot and the consignee.

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), all shipments of the product were substandard in quality; Section 403 (e) (1) (2), the Baltimore and Lincoln lots failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the labels failed to bear the name of the food specified in the standard.

Further misbranding, Section 403 (a), the statement "Standard Quality Grade C," on the label of the Toledo lot, was false and misleading.

**DISPOSITION:** Between November 14, 1945, and March 28, 1946, the Stoughton Canning Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be labeled or relabeled in compliance with the law, under the supervision of the Food and Drug Administration.

**9556. Misbranding of canned peas. U. S. v. 497 Cases and 1,997 Cases of Canned Peas. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17438, 17586. Sample Nos. 18063-H, 24551-H.)

**LIBELS FILED:** September 12 and October 4, 1945, Eastern District of Louisiana and Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 26 and August 2, 1945, by the Cambria Canning Corporation, from Cambria, Wis.

**PRODUCT:** 497 cases and 1,997 cases, each containing 24 20-ounce cans, of peas at New Orleans, La., and Chicago, Ill., respectively.

**LABEL, IN PART:** (New Orleans lot) "Eatmor Brand \* \* \* Early June Peas Size 4 Distributed by Fall River Canning Co. Fall River, Wis."

**NATURE OF CHARGE:** Misbranding (Chicago lot), Section 403 (e) (1) (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), its label failed to bear the name of the food specified in the definition and standard of identity for canned peas.

Further misbranding (both lots), Section 403 (h) (1), the article was substandard in quality.

**DISPOSITION:** November 5, 1945, and January 9, 1946. The Cambria Canning Corporation, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9557. Misbranding of canned peas. U. S. v. 1,300 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19091. Sample No. 21786-H.)

**LIBEL FILED:** On or about February 15, 1946, District of Kansas.

**ALLEGED SHIPMENT:** On or about September 15, 1945, by the Perry Canning Co., from Perry, Utah.

**PRODUCT:** 1,300 cases, each containing 24 20-ounce cans, of peas at Coffeyville, Kans.

**LABEL, IN PART:** "Midwest Brand \* \* \* Sweet Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was substandard in quality because more than 10 percent of the peas were too hard to be crushed by a weight of 2 pounds, and because the article was a sweet, wrinkled variety of pea and the alcohol-insoluble solids were more than 21 percent.



**DISPOSITION:** March 4, 1946. The Perry Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9558. Misbranding of canned peas. U. S. v. 1,198 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 18370. Sample No. 14564-H.)**

**LIBEL FILED:** November 9, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about August 25, 1945, by the Oconomowoc Canning Co., from Waunakee, Wis.

**PRODUCT:** 1,198 cases, each containing 24 1-pound, 4-ounce cans, of peas at Winchester, Ky.

**LABEL, IN PART:** "Buddie Brand Medium June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** December 5, 1945. The Oconomowoc Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9559. Misbranding of canned peas. U. S. v. 1,122 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17754. Sample No. 25111-H.)**

**LIBEL FILED:** October 22, 1945, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about August 17, 1945, by the Athens Canning Co., from Athens, Wis.

**PRODUCT:** 1,122 cases, each containing 24 cans, of peas at Fort Worth, Tex.

**LABEL, IN PART:** "Arion Brand Early Peas Contents 1 Lb. 4 Oz. Size 4."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard.

**DISPOSITION:** January 28, 1946. The Athens Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**9560. Misbranding of canned peas. U. S. v. 760 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18275. Sample No. 35132-H.)**

**LIBEL FILED:** November 5, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about August 17, 1945, by Tigerton Foods, from Tigerton, Wis.

**PRODUCT:** 760 cases, each containing 24 cans, of peas at St. Louis, Mo. The product was shipped unlabeled and invoiced as standard peas. No written agreement existed between the shipper and consignee as to the labeling of the product.

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard; Section 403 (e) (1) (2), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the label failed to bear, as required by the regulations, the name of the food specified in the definition and standard of identity for canned peas.

**DISPOSITION:** November 26, 1945. The General Grocer Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9561. Misbranding of canned peas. U. S. v. 749 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19322. Sample No. 17790-H.)**

**LIBEL FILED:** March 26, 1946, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 12, 1945, by the Osseo Canning Co., from Osseo, Wis.



PRODUCT: 749 cases, each containing 24 1-pound, 4-ounce cans, of peas at Chicago, Ill.

LABEL, IN PART: "Blossom Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403(h)(1), the product was below standard.

DISPOSITION: June 5, 1946. The Osseo Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9562. Misbranding of canned peas. U. S. v. 708 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18320. Sample No. 35133-H.)**

LIBEL FILED: November 1, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about July 14, 1945, by the Sycamore Preserve Works Corporation, from Sycamore, Ill.

PRODUCT: 708 cases, each containing 24 unlabeled cans, of peas at St. Louis, Mo. The product was shipped unlabeled and invoiced as standard peas. No written agreement existed between the shipper and consignee as to the labeling of the product.

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard in quality; Section 403 (e) (1) (2), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the label failed to bear, as required by the regulations, the name of the food specified in the definition and standard of identity for canned peas.

DISPOSITION: November 26, 1945. The General Grocer Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9563. Misbranding of canned peas. U. S. v. 598 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18378. Sample No. 3141-H.)**

LIBEL FILED: November 13, 1945, District of Columbia.

ALLEGED SHIPMENT: On or about October 18, 1945, by the C. D. Kenny Co., from Baltimore, Md.

PRODUCT: 598 cases, each containing 24 1-pound, 4-ounce cans, of peas at Washington, D. C.

LABEL, IN PART: "Riderwood Brand Early June Peas \* \* \* Distributed By C. D. Kenny Division Consolidated Grocers Corporation Baltimore, Maryland."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article was below standard.

DISPOSITION: January 3, 1946. The Stoughton Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9564. Misbranding of canned peas. U. S. v. 528 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18507. Sample No. 21180-H.)**

LIBEL FILED: On or about December 13, 1945, Northern District of Oklahoma.

ALLEGED SHIPMENT: On or about September 29, 1945, by the Lakeside Packing Co., from Amery, Wis.

PRODUCT: 528 cases, each containing 24 20-ounce cans, of peas at Tulsa, Okla.

LABEL, IN PART: "Gardenside Early June Peas \* \* \* Distributed by Regent Canfood Company, San Francisco, California."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** January 3, 1946. The Safeway Stores, Inc., Tulsa, Okla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9565. Misbranding of canned peas. U. S. v. 494 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 18369-A. Sample No. 35142-H.)**

**LIBEL FILED:** November 19, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 14, 1945, by the Fowler Canning Co., from Fowler, Ind.

**PRODUCT:** 494 cases, each containing 24 20-ounce cans, of peas at St. Louis, Mo.

**LABEL, IN PART:** "Benton County Brand Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (b) (1), the article was sub-standard in quality.

**DISPOSITION:** December 11, 1945. The L. Pearlman Grocer Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9566. Misbranding of canned peas. U. S. v. 349 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17527. Sample No. 19984-H.)**

**LIBEL FILED:** February 26, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 12, 1945, by the Wisconsin Canning Co., from Winneconne, Wis.

**PRODUCT:** 349 cases, each containing 24 1-pound, 4-ounce cans, of peas at Duluth, Minn.

**LABEL, IN PART:** "Nation's Garden Brand Early June Peas \* \* \* Packed For Fine Foods, Inc. Minneapolis, Minn. Seattle, Wash."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** June 26, 1946. The Wisconsin Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9567. Misbranding of canned peas. U. S. v. 348 Cases of Canned Peas (and 2 other seizure actions against canned peas). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 17644, 17743, 17977. Sample Nos. 19278-H, 20300-H, 22390-H.)**

**LIBELS FILED:** Between October 4 and 18, 1945, Southern District of Illinois, Northern District of Iowa, and Northern District of Oklahoma.

**ALLEGED SHIPMENT:** Between the approximate dates of August 21 and September 18, 1945, by the Klindt-Geiger Canning Co., from Cassville, Wis.

**PRODUCT:** 348 cases, each containing 24 unlabeled cans, of peas at Bloomington, Ill., and 487 cases and 97 cases, each containing 24 labeled cans, of peas at Dubuque, Iowa, and Tulsa, Okla., respectively. No written agreement existed between the shipper and consignee of the lot of unlabeled cans as to the labeling of the product.

**LABEL, IN PART:** (Stenciling on cases of unlabeled cans) "24 No. 2 Cans Unlabeled No. 4 Early June Peas"; (labeled cans) "Overland Brand Wisconsin [or "Badger Brand"] Early June Peas \* \* \* 1 Lb. 4 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below the standard of quality for canned peas.

Further misbranding, Section 403 (e) (1) (2), the Illinois lot failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the label of the Illinois lot failed to bear the name of the food specified in the definition and standard for canned peas.

**DISPOSITION:** Between October 30, 1945, and January 7, 1946, the Campbell-Holton and Co., Bloomington, Ill., the Klindt-Geiger Canning Co., Cassville, Wis., and the Warehouse Market, Tulsa, Okla., claimants for the Illinois,



Iowa, and Oklahoma lots, respectively, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9568. Misbranding of canned peas. U. S. v. 194 Cases of Canned Peas. Default decree ordering product delivered to a charitable institution. (F. D. C. No. 19333. Sample No. 52821-H.)**

**LIBEL FILED:** March 11, 1946, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about November 15, 1945, by the Morgan Packing Co., from Austin, Ind.

**PRODUCT:** 194 cases, each containing 24 1-pound, 4-ounce cans, of peas at Nashville, Tenn.

**LABEL, IN PART:** Scott Co. Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403(h)(1), the product was below standard.

**DISPOSITION:** May 31, 1946. Only 8 cases of the product having been seized, and no claimant having appeared, judgment was entered ordering the product delivered to a charitable institution.

**9569. Misbranding of canned peas. U. S. v. 175 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19164. Sample No. 35609-H.)**

**LIBEL FILED:** February 4, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about August 17, 1945, by the Oostburg Canning Co., from Oostburg, Wis.

**PRODUCT:** 175 cases, each containing 24 cans, of peas at St. Louis, Mo. The product was shipped unlabeled to St. Louis, at which point the cans were labeled as set forth below.

**LABEL, IN PART:** "Contents 1 Lb. 4 Oz. From the Heart of Dairyland Wisconsin Medium Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403(e), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (g) (2), the label failed to bear, as required by the regulations, the name of the food specified in the definition and standard of identity for canned peas; and, Section 403(h)(1), the product fell below the standard.

**DISPOSITION:** March 8, 1946. The Oostburg Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9570. Misbranding of canned peas. U. S. v. 113 Cases of Canned Peas (and 3 other seizure actions against canned peas). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 18805 to 18807, incl., 19163. Sample Nos. 13160-H, 14275-H, 35030-H, 35039-H, 35040-H.)**

**LIBELS FILED:** January 10 and February 5, 1946, Eastern District of Arkansas and Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about October 3 and November 16, 1945, by John S. Mitchell, Inc., from Windfall, Ind.

**PRODUCT:** 113 cases at Blytheville, Ark., 123 cases at Paragould, Ark., 275 cases at Jonesboro, Ark., and 543 cases at Covington, Ky. Each case contained 24 1-pound, 4-ounce cans, of peas.

**LABEL, IN PART:** "Early June Peas Sweet William Brand," or "Sales Brand Early June Peas Packed for Empire Distributing Company, St. Louis, Mo."

**NATURE OF CHARGE:** Misbranding, Section 403(h)(1), the article was below standard.

**DISPOSITION:** March 13 and 27, 1946. John S. Mitchell, Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.



**9571. Adulteration of frozen peas. U. S. v. 83 Cartons of Frozen Peas. Default decree of condemnation and destruction.** (F. D. C. No. 19126. Sample No. 46800-H.)

**LIBEL FILED:** February 12, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about January 11, 1946, by the Pacific Frozen Foods Co., from Seattle, Wash.

**PRODUCT:** 83 cartons, each containing 20 pounds, of frozen peas at San Francisco, Calif. Examination showed that the product was sour and fermented.

**LABEL, IN PART:** "Packed By Evans Cannery 504 14th Street, Longview, Washington Peas."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9572. Adulteration of chick peas. U. S. v. 29 Bags of Chick Peas. Default decree of condemnation and destruction.** (F. D. C. No. 18269. Sample No. 5012-H.)

**LIBEL FILED:** October 31, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 16, 1943, by M. and J. B. Kellam Co., from Binghamton, N. Y.

**PRODUCT:** 29 110-pound bags of chick peas at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and weevil-damaged peas.

**DISPOSITION:** January 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9573. Adulteration of sauerkraut. U. S. v. 97 Cases of Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 18801. Sample No. 19528-H.)

**LIBEL FILED:** January 4, 1946, District of South Dakota.

**ALLEGED SHIPMENT:** On or about February 28, 1945, by the Goldsmith Pickle Co., from Chicago, Ill.

**PRODUCT:** 97 cases, each containing 12 1-quart jars, of sauerkraut at Sioux Falls, S. Dak.

**LABEL, IN PART:** "Goldsmith Brand Bulk Style Sauerkraut."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9574. Adulteration and misbranding of sauerkraut. U. S. v. 198 Cases of Sauerkraut. Consent decree of condemnation. Fit portion of product ordered delivered to a charitable institution; remainder ordered destroyed.** (F. D. C. No. 17548. Sample Nos. 26286-H, 47072-H.)

**LIBEL FILED:** On or about March 5, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about December 21, 1945, by the W. B. Schneider Pickle and Vinegar Co., from Kansas City, Mo.

**PRODUCT:** 198 cases, each containing 12 2-pound jars, of sauerkraut at Denver, Colo. The jars contained an average of 19.82 ounces of drained kraut. Jars of this size should contain at least 25 ounces of drained kraut.

**LABEL, IN PART:** "Schneider's Superior Fancy Old Fashioned Wisconsin Sauer Kraut."

**NATURE OF CHARGE:** Adulteration, Section 403 (b) (2), brine had been substituted in whole or in part for sauerkraut.

Misbranding, Section 403 (d), the container of the article was so filled as to be misleading since the jars appeared to contain more sauerkraut than was actually the case.

**DISPOSITION:** April 26, 1946. The shipper having consented to the entry of a decree, judgment of condemnation was entered. A small portion of the product having been found to be in an active state of fermentation, that portion was ordered destroyed. The remainder of the sauerkraut was ordered distributed among several charitable institutions.



**9575. Adulteration of canned spinach. U. S. v. 1,327 Cases of Canned Spinach. Default decree of forfeiture. Product ordered delivered to a public organization. (F. D. C. No. 17434. Sample No. 21061-H.)**

**LIBEL FILED:** On or about September 25, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about June 4, 1945, by the Foster and Wood Canning Co., from Lodi, Calif.

**PRODUCT:** 1,327 cases, each containing 6 6-pound, 2-ounce cans, of spinach at Kansas City, Mo.

**LABEL, IN PART:** "Lee Fancy California Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of aphids.

**DISPOSITION:** October 23, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed. In January 1946, the court modified the order of destruction to permit the delivery of the product to a public organization, for denaturing and use as stock feed, under the supervision of the Food and Drug Administration.

**9576. Adulteration of canned spinach. U. S. v. 183 Cases and 875 Cases of Canned Spinach. Product ordered released under bond. (F. D. C. Nos. 17482, 17483. Sample Nos. 25851-H, 25853-H.)**

**LIBELS FILED:** On or about September 21, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about June 25, 1945, by the Appleby-Young Canning Co., from Johnson, Ark.

**PRODUCT:** 1,058 cases, each containing 6 6-pound, 2-ounce cans, of spinach at Denver, Colo.

**LABEL, IN PART:** "May-Flower [or "Hiwasse"] Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 12, 1946. The Appleby-Young Canning Co. having appeared as claimant, judgment was entered ordering the product released under bond, conditioned that all cans of swelled or otherwise abnormal appearance, together with all cans bearing a certain code, be destroyed under the supervision of the Food and Drug Administration.

**9577. Adulteration of canned spinach. U. S. v. 1,014 Cases of Canned Spinach. Default decree of condemnation and destruction. (F. D. C. No. 17026. Sample No. 36622-H.)**

**LIBEL FILED:** August 21, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 15, 16, and 17, 1945, by the Baron Canning Co., from Westville, Okla.

**PRODUCT:** 1,014 cases, each containing 6 6-pound, 2-ounce cans, of spinach at Seattle, Wash.

**LABEL, IN PART:** "Baron [or "Big League"] Brand Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** January 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9578. Adulteration of spinach. U. S. v. 994 Cases of Spinach. Default decree of condemnation and destruction. (F. D. C. No. 19338. Sample No. 47323-H.)**

**LIBEL FILED:** March 14, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about January 12, 1946, by the Sallisaw Canning Co., from Stigler, Okla.

**PRODUCT:** 994 cases, each containing 6 cans, of spinach at Denver, Colo. Examination showed that the product was undergoing progressive decomposition, and that it contained grass and leaves of plants other than spinach.

**LABEL, IN PART:** (Cans) "Mayflower Spinach" Contents 6 Pounds."

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the article consisted in whole or in part of a decomposed substance; Section 402(b) (2), grass and



leaves of plants other than spinach had been substituted in part for spinach; and, Section 402 (b) (4), they had been mixed and packed with the article so as to reduce its quality.

**DISPOSITION:** May 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9579. Adulteration of canned spinach. U. S. v. 262 Cases of Canned Spinach (and 3 other seizure actions against canned spinach). Consent decrees ordering product released under bond for segregation and destruction of unfit portions.** (F. D. C. Nos. 17061, 17433, 17476, 17762. Sample Nos. 25850-H, 25854-H, 25858-H, 26759-H.)

**LIBELS FILED:** Between the approximate dates of September 12 and October 12, 1945, Districts of Colorado and Wyoming.

**ALLEGED SHIPMENT:** On or about July 18 and 28, 1945, by the Deck Brothers Produce Co., from Springfield, Mo.

**PRODUCT:** Canned spinach. 458 cases, each containing 6 6-pound, 2-ounce cans, and 259 cases, each containing 24 1-pound, 2-ounce cans, at Denver, Colo.; and 190 cases, each containing 6 6-pound, 2-ounce cans, at Cheyenne, Wyo.

**LABEL, IN PART:** "Big League Brand Spinach Distributed by Cannery Exchange Inc. Springfield, Mo.," "Hiwassee [or "Sahara"] Brand Spinach \* \* \* Packed by Appleby-Young Canning Co. Fayetteville, Ark.," or "Mayflower Spinach \* \* \* Distributed by Marshall Canning Co., Marshalltown, Iowa."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** On February 12, 1946, the Deck Brothers Produce Co., claimant, having consented to the entry of decrees, the court ordered the 3 Denver lots released under bond after the sorting and destruction of all cans of swelled or otherwise abnormal appearance, under the supervision of the Food and Drug Administration. On February 28, 1946, the Deck Brothers Produce Co., the Asher-Wyoming Co., Cheyenne, Wyo., and the Cannery Exchange Inc., Springfield, Missouri, claimants of the Cheyenne lot, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be salvaged in the same manner.

**9580. Adulteration and misbranding of canned turnip greens and canned mustard greens. U. S. v. 1,213 Cases of Turnip Greens (and 9 other seizure actions against turnip greens and mustard greens). Default decrees of condemnation and destruction.** (F. D. C. Nos. 18476, 18521, 18552, 18696 to 18700, incl., 18773, 19140. Sample Nos. 25888-H, 25889-H, 26360-H, 30435-H, 30436-H, 47020-H, 47021-H, 47027-H, 47030-H, 47037-H, 47281-H, 47282-H, 47304-H.)

**LIBEL FILED:** Between November 26, 1945, and February 13, 1946, District of Colorado and Northern District of Texas.

**ALLEGED SHIPMENT:** Between the approximate dates of July 10 and August 14, 1945, by the E. L. Peterson Canning Co., Sallisaw, Okla.

**PRODUCT:** 2,073 cases of turnip greens and 336 cases of mustard greens at Denver, Colo.; 224 cases of turnip greens at Colorado Springs, Colo.; and 198 cases of turnip greens at Amarillo, Tex. The greens contained large amounts of grass. Six of the 10 shipments contained aphids; and in one of these shipments grasshoppers were also found.

**LABEL, IN PART:** "Stigler [or "Sallisaw Brand"] Turnip Greens," or "El-Pete Mustard Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), grass had been substituted in part for turnip greens and mustard greens; Section 402 (b) (4), it had been mixed and packed with the products so as to reduce their quality; and, Section 402 (a) (3), portions of the products consisted in whole or in part of filthy substances by reason of the presence of aphids and, in one lot, grasshoppers.

Misbranding (portion), Section 403 (a), the label designations, "Turnip Greens" and "Mustard Greens," were false and misleading as applied to products containing grass.



**DISPOSITION:** Between January 23 and April 25, 1946, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

**9581. Adulteration of canned turnip greens. U. S. v. 748 Cases of Canned Turnip Greens (and 2 other seizure actions against canned turnip greens). Decrees of condemnation and destruction.** (F. D. C. Nos. 17167, 18025, 18094. Sample Nos. 22785-H, 22985-H, 30307-H.)

**LIBELS FILED:** August 23, October 23, and November 9, 1945, Western District of Tennessee, Eastern District of Arkansas, and District of Colorado.

**ALLEGED SHIPMENT:** Between the approximate dates of June 11 and August 27, 1945, by the Baron Canning Co., from Westville, Okla.

**PRODUCT:** Turnip greens. 748 cases at Memphis, Tenn., 941 cases at Little Rock, Ark., and 197 cases at Denver, Colo., each case containing 24 1-pound, 2-ounce cans.

**LABEL, IN PART:** "Howard's Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, larvae, and aphids.

**DISPOSITION:** November 29 and December 11, 1945, and February 14, 1946. No claimant having appeared for the Little Rock lot, and the sole interveners for the Memphis and Denver lots having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

**9582. Adulteration of canned turnip greens. U. S. v. 303 Cases of Canned Turnip Greens. Default decree of condemnation and destruction.** (F. D. C. No. 18485. Sample No. 25121-H.)

**LIBEL FILED:** On or about December 27, 1945, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about August 8, 1945, by the Litteral Canning Co., from Fayetteville, Ark.

**PRODUCT:** 303 cases, each containing 24 1-pound, 2-ounce cans, of turnip greens at San Angelo, Tex.

**LABEL, IN PART:** "Licano Brand Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids and larvae.

**DISPOSITION:** February 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### TOMATOES AND TOMATO PRODUCTS\*

**9583. Adulteration of canned tomatoes. U. S. v. 178 Cases of Canned Tomatoes. Default decree of condemnation and destruction.** (F. D. C. No. 18481. Sample No. 24248-H.)

**LIBEL FILED:** November 30, 1945, Southern District of Mississippi.

**ALLEGED SHIPMENT:** On or about October 18, 1945, by the Preston Rider Packing Co., from Campbellsburg, Ind.

**PRODUCT:** 178 Cases, each containing 24 cans, of tomatoes at Biloxi, Miss.

**LABEL, IN PART:** "Dubon Brand Tomatoes - Contents 1 Lb. 3 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9584. Adulteration of tomato catsup. U. S. v. 36 Cases of Tomato Catsup. Default decree of destruction.** (F. D. C. No. 19661. Sample No. 52852-H.)

**LIBEL FILED:** April 24, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 11, 1946, by the Indiana Wholesale Food Supply, Gary, Ind.

**PRODUCT:** 36 cases, each containing 24 14-ounce bottles, of tomato catsup at Athens, Ohio.

**LABEL, IN PART:** "Jackson Tomato Catsup \* \* \* packed by Morgan Packing Co., Austin, Indiana."

\*See also No. 9545.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 29, 1946. No claimant having appeared, judgment was entered ordering the product destroyed.

**9585. Adulteration of tomato puree and tomato juice. U. S. v. 10 Cases of Tomato Puree and 7½ Cases of Tomato Juice. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19127, 19128. Sample Nos. 58166-H, 58168-H.)

**LIBELS FILED:** February 21, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about October 31, 1945, by the Mel-Williams Co., from Sonoma, Calif.

**PRODUCT:** 10 cases, each containing 6 6-pound, 9-ounce cans, of tomato puree and 7½ cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Seattle, Wash.

**LABEL, IN PART:** "Tom Tom Tomato Puree Packed by Valley Canning Company Sonoma, California," or "Happy Home \* \* \* Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 31, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

**9586. Misbranding of tomato juice. U. S. v. 258 Cases of Tomato Juice. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19349. Sample No. 29979-H.)

**LIBEL FILED:** March 15, 1946, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about January 28, 1946, by the United States Products Corporation, Ltd., from Alameda, Calif.

**PRODUCT:** 258 cases, each containing 6 3-quart cans, of tomato juice at New Orleans, La. Examination showed that a portion of this product, identified by a certain code mark, was tomato puree and not, as labeled, tomato juice.

**LABEL, IN PART:** "Signet Brand Fancy California Tomato Juice."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label designation, "Tomato Juice," was false and misleading as applied to tomato puree.

**DISPOSITION:** April 23, 1946. The United States Products Corporation, Ltd., San Jose, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9587. Adulteration of canned tomato puree and tomato paste. U. S. v. Sun Garden Packing Co. Plea of guilty. Fine, \$500.** (F. D. C. No. 17782. Sample Nos. 6042-H, 11805-H, 28415-H, 28455-H, 29306-H.)

**INFORMATION FILED:** February 13, 1946, Northern District of California, against the Sun Garden Packing Co., a partnership, San Jose, Calif.

**ALLEGED SHIPMENT:** Between the approximate dates of November 10, 1944, and January 15, 1945, from the State of California into the States of New York, Massachusetts, Washington, and New Jersey.

**LABEL, IN PART:** "Red Bow Puree of Tomatoes," or "Green Bow Tomato Paste."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 13, 1946. A plea of guilty having been entered, the defendant was fined \$500.

**9588. Adulteration of tomato paste and tomato puree. U. S. v. Uddo & Taormina Co. and Vincent G. Taormina. Pleas of guilty. Corporate defendant fined \$300; individual defendant fined \$100 on each of 7 counts, with sentence suspended on count 8, and placed on probation for 2 years.** (F. D. C. No. 16529. Sample Nos. 77250-F, 78277-F, 85302-F, 85304-F, 92922-F to 92924-F, incl., 92930-F.)

**INFORMATION FILED:** October 8, 1945, District of New Jersey, against the Uddo & Taormina Co., a partnership, Vineland, N. J., and Vincent G. Taormina, a member of the partnership.



**ALLEGED SHIPMENT:** On or about October 14, 16, 17, and 18, 1944, from the State of New Jersey into the States of New York, Pennsylvania, and Maryland.

**LABEL, IN PART:** "Mountain Beauty Tomato Paste [or "Tomato Puree"] \* \* \* Packed For La Sierra Heights Canning Co., Inc.—Buena Park—California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 20, 1946. Pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$300 against the corporate defendant. The individual defendant was fined \$100 on each of 7 counts of the information, with sentence suspended on count 8, and he was placed on probation for 2 years.

**9589. Misbranding of tomato paste. U. S. v. 200 Cases of Tomato Paste. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19506. Sample No. 44543—H.)**

**LIBEL FILED:** April 10, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 4, 1946, by the F. and M. Importing Co., from Los Angeles, Calif.

**PRODUCT:** 200 cases, each containing 100 6-ounce cans, of tomato paste at Boston, Mass. The product contained less than 25 percent of salt-free tomato solids.

**LABEL, IN PART:** "Progresso Brand Pure Tomato Paste \* \* \* Packed For La Sierra Heights Canning Co., Inc. Buena Park, California."

**NATURE OF CHARGE:** Misbranding, Section 403(g)(1), the product failed to conform to the definition and standard of identity for tomato paste since the regulations provide that tomato paste shall contain not less than 25 percent of salt-free tomato solids.

**DISPOSITION:** May 28, 1946. The Uddo and Taormina Co., Buena Park, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9590. Adulteration of tomato puree and misbranding of tomato paste and apricots. U. S. v. Thornton Canning Co. Plea of nolo contendere. Fine, \$400. (F. D. C. No. 16568. Sample Nos. 73483—F, 84527—F, 84547—F, 29303—H, 29312—H.)**

**INFORMATION FILED:** January 25, 1946, Northern District of California, against the Thornton Canning Co., a partnership, Thornton, Calif.

**ALLEGED SHIPMENT:** Between the approximate dates of September 14, 1944, and February 3, 1945, from the State of California into the States of Louisiana, Ohio, Washington, Rhode Island, and Maryland.

**PRODUCT:** Tomato puree that was in whole or in part decomposed; tomato paste that had not been sufficiently concentrated; and canned apricots that were packed in sirup defined in the regulations as "Heavy sirup," and not packed, as labeled, in "Extra Heavy Syrup."

**LABEL, IN PART:** "Valley Belt Tomato Puree \* \* \* Packed For Parrott & Co. San Francisco, California," "Lido Brand Tomato Paste," or "Amocat Brand \* \* \* Apricots In Extra Heavy Syrup Distributed By West Coast Grocery Co. Tacoma, Wash."

**NATURE OF CHARGE:** Tomato puree. Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Tomato paste. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for tomato paste since it contained less than 25 percent of salt-free tomato solids.

Apricots. Misbranding, Section 403 (g) (2), the product failed to conform to the definition and standard of identity for canned apricots since its label failed to bear the name of the optional packing medium present.

**DISPOSITION:** February 8, 1946. A plea of nolo contendere having been entered, the defendant was fined \$400.



- 9591. Adulteration of tomato puree. U. S. v. D. E. Foote & Co., Inc. Plea of guilty. Fine, \$150 and costs.** (F. D. C. No. 19513. Sample Nos. 3523-H, 13401-H.)
- INFORMATION FILED:** March 22, 1946, District of Maryland, against D. E. Foote & Co., Inc., Baltimore, Md.
- ALLEGED SHIPMENT:** On or about October 13, 1944, and October 1, 1945, from the State of Maryland into the States of Ohio and Georgia.
- LABEL, IN PART:** (Cans) "Mountain Pride Tomato Puree \* \* \* Distributed by Mount Airy Sales Co. Baltimore, Maryland," or "Family Brand Tomato Puree."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- DISPOSITION:** April 26, 1946. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150, plus costs.
- 9592. Adulteration of tomato puree. U. S. v. 42 Cases of Tomato Puree (and 2 other seizure actions against tomato puree). Default decrees of condemnation and destruction.** (F. D. C. Nos. 19351, 19367, 19368. Sample Nos. 35074-H, 35076-H, 35077-H.)
- LIBELS FILED:** March 15 and 18, 1946, Eastern District of Missouri.
- ALLEGED SHIPMENT:** On or about October 22, 1945, by the Pleasant Hill Canning Co., from Covington, Ohio.
- PRODUCT:** 275 cases, each containing 6 cans, of tomato puree at St. Louis, Mo., and 42 cases, each containing 6 cans, of the same product at Granite City, Ill.
- LABEL, IN PART:** (Portion) "Tomato Puree Net Contents 6 Lbs. 9 Oz. Packed by Pleasant Hill Canning Co. Pleasant Hill, Ohio."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- DISPOSITION:** April 17 and 26, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.
- 9593. Adulteration of tomato puree. U. S. v. 300 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 19284. Sample No. 23152-H.)
- LIBEL FILED:** March 1, 1946, Eastern District of Illinois.
- ALLEGED SHIPMENT:** On or about November 17 and December 1, 1945, by the Ray Brothers and Noble Canning Co., from Hobbs and Muncie, Ind.
- PRODUCT:** 300 cases, each containing 6 6-pound, 7-ounce cans, of tomato puree at Mattoon, Ill.
- LABEL, IN PART:** "Farmers Pride Brand Tomato Puree."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.
- DISPOSITION:** April 9, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of in such manner as to preclude the possibility of human consumption.
- 9594. Adulteration of tomato puree. U. S. v. 25 Cases and 50 Cases of Tomato Puree. Default decrees of condemnation. One lot ordered destroyed; remaining lot ordered delivered to a Federal institution, for use as animal feed.** (F. D. C. Nos. 17544, 19806. Sample Nos. 16090-H, 52904-H.)
- LIBELS FILED:** February 26 and April 29, 1946, Southern District of Ohio and Eastern District of Michigan.
- ALLEGED SHIPMENT:** On or about October 31, 1945, and January 17, 1946, by the Butterfield Canning Co., from Muncie, Ind.
- PRODUCT:** 25 cases of tomato puree at Dayton, Ohio, and 50 cases of the same product at Muncie, Ind.
- LABEL, IN PART:** "A-C Tomato Puree Contents 1 Lb. 3 Oz.," or "Contents 1 Lb. 3 Oz. Butterfield Brand Tomato Puree."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.



**DISPOSITION:** May 17 and June 10, 1946. No claimant having appeared, judgments of condemnation were entered and the Detroit lot was ordered delivered to a Federal institution, for use as animal feed. The remaining lot was ordered destroyed.

**9595. Adulteration of tomato puree. U. S. v. 333 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 19111. Sample No. 52828-H.)

**LIBEL FILED:** February 7, 1946, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about October 3 and 31, 1945, by the Orestes Canning Co., from Elwood, Ind.

**PRODUCT:** 333 cases, each containing 6 cans, of tomato puree at Nashville, Tenn. Examination showed that the product contained decomposed tomato material.

**LABEL, IN PART:** (Cases) "Hermitage Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9596. Adulteration of tomato puree. U. S. v. 94 Cases and 583 Cases of Tomato Puree. Default decrees of condemnation. Product ordered denatured or destroyed.** (F. D. C. Nos. 19326, 19327. Sample Nos. 19878-H, 19879-H.)

**LIBELS FILED:** March 26, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 15, 1945, and January 4, 1946, by the Blue River Packing Co., from Morristown, Ind.

**PRODUCT:** 94 cases, each containing 6 cans, of tomato puree at Minneapolis, Minn., and 583 cases, each containing 6 cans, of the same product at St. Paul, Minn.

**LABEL, IN PART:** "Blue River Brand Contents 6 lbs, 8 oz. Fancy Tomato Puree," or "Home Brand Tomato Puree Net Weight 6 Lb. 9 Oz. Distributed by Griggs, Cooper & Co."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** June 4, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered denatured by the United States marshal, under the direction of the Food and Drug Administration. The denatured puree was to be used as animal feed; otherwise, it was to be destroyed.

**9597. Adulteration of tomato puree. U. S. v. 45 Cases of Tomato Puree (and 2 other seizure actions against tomato puree). Default decrees of condemnation and destruction.** (F. D. C. Nos. 18363, 18364, 18733. Sample Nos. 14575-H, 52416-H, 52520-H.)

**LIBELS FILED:** November 9 and December 26, 1945, Eastern District of Kentucky and Northern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of August 25 and October 5, 1945, by The Morgan Packing Co., Austin, Ind.

**PRODUCT:** 45 cases at Lexington, Ky., 30 cases at Pikesville, Ky., and 82 cases at Lima, Ohio, each case containing 48 cans of tomato puree.

**LABEL, IN PART:** "Jackson Brand Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 1, 1945, and January 29, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9598. Adulteration of tomato puree. U. S. v. 137 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 19223. Sample No. 7331-H.)

**LIBEL FILED:** February 19, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 23, 1945, by the Riverbank Canning Co., from Riverbank, Calif.

**PRODUCT:** 137 cases, each containing 24 1-pound, 12-ounce cans, of tomato puree at Clifton, N. J.



LABEL, IN PART: "Zelo Brand Fancy Tomato Puree."  
NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.  
DISPOSITION: April 1, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9599. Adulteration and misbranding of tomato puree. U. S. v. 110 Cases of Tomato Puree (and 5 other seizure actions against tomato puree). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed.** (F. D. C. Nos. 17520, 17521, 18865, 18931, 18932, 19110. Sample Nos. 14135-H, 14344-H, 52810-H, 52812-H, 52819-H, 52825-H, 52832-H.)

LIBELS FILED: January 15 and 31 and February 7 and 19, 1946, Middle District of Tennessee and Western District of Kentucky.

ALLEGED SHIPMENT: On or about October 8, 15, and 29 and November 1 and 16, 1945, by the Houghland Packing Co., Inc., from Franklin, Ind.

PRODUCT: 188 cases, each containing 48 cans, and 543 cases, each containing 6 cans, of tomato puree at Nashville, Tenn.; and 31 cases, each containing 48 cans, of tomato puree at Bowling Green, Ky. Examination showed that a portion of the product contained decomposed tomato material, and that the remainder was short-weight.

LABEL, IN PART: "Franklin Tomato Puree Contents 6 Lbs. 8 Oz. [or "Net Weight 10½ Oz."]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), a portion of the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e) (2), the remainder of the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: March 14, May 15, and June 3, 1946. The Houghland Packing Co., claimant for the misbranded lot, having consented to the entry of a decree, and no claimant having appeared for the other lots, judgments of condemnation were entered. It was ordered that the adulterated lots be destroyed and that the misbranded lot be released under bond for relabeling under the supervision of the Federal Security Agency.

**9600. Misbranding of tomato puree. U. S. v. 20 13/24 Cases of Tomato Puree. Default decree of condemnation. Product ordered delivered to a Federal institution.** (F. D. C. No. 19313. Sample No. 37431-H.)

LIBEL FILED: March 19, 1946, Western District of Washington; amended libel filed March 21, 1946.

ALLEGED SHIPMENT: On or about November 15, 1945, by the Sun Garden Packing Co., from San Jose, Calif.

PRODUCT: 20<sup>13/24</sup> cases, each full case containing 24 cans, of tomato puree at Seattle, Wash. Examination showed that the product was short-weight.

LABEL, IN PART: "Cream Bow Puree of Tomatoes Contents 1 Lb. 12 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: May 31, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution.

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Armour Creameries:		dried apple pieces-----	9510
butter-----	9470	Beatrice Creamery Co.:	
Asher, Albert:		butter-----	9467, 9475
dried fruits-----	9508		

	N. J. No.		N. J. No.
Blodgett, Frank H., Inc.:		Deck Brothers Produce Co.:	
ground buckwheat hulls-----	9453	canned spinach-----	9579
Blue River Packing Co.:		Denver Flour Mills Co.:	
tomato puree-----	9596	flour-----	9419
Blue Valley Creamery:		Desert Glo Date Products Co.:	
butter-----	9477	dates-----	9511
Brewster Creamery Co.:		Dickinson, Albert, Co.:	
butter-----	9482	popcorn-----	9457
Burrus Mill & Elevator Co. <i>See</i>		Dixie-Portland Flour Co.:	
Tex-O-Kan Flour Mills Co.		self-rising flour-----	9435
Butterfield Canning Co.:		Doscher, John, & Co.:	
tomato puree-----	9594	butter-----	9483
Cabot Farmers' Cooperative		Doughnut Corp. of America:	
Creamery Co., Inc.:		doughnut flour, sweet dough	
butter-----	9481	flour, and baking mixes----	9424
Cadick Milling Co.:		Dugan, E. J.:	
corn meal-----	9413	self-rising flour-----	9434
Calavo Co.:		Dunlop Milling Co. (Division of	
raisins-----	9518	Igleheart Bros., Inc.):	
California Packing Corp.:		plain, self-rising, and phos-	
figs-----	9514	phated flour-----	9430
raisins-----	9519	Eagle Flour Mills:	
Cambria Canning Corp.:		flour-----	9419
canned peas-----	9556	Earle Mill & Elevator Co.:	
Canners Exchange, Inc.:		corn meal-----	9409
canned spinach-----	9579	Ebert, Lewis, & Sons, Inc.:	
Casselton Creamery Co.:		butter-----	9482
butter-----	9484	Edgerton Cooperative Creamery	
Cayol Foods:		Co.:	
dried fruit-----	9509	butter-----	9491
Central Soya Co., Inc.:		Empire Distributing Co.:	
soy flour-----	9440	canned peas-----	9570
Chesman, Charles:		Evans Cannery:	
cheese-----	9498	frozen peas-----	9571
Chesso Cheese Co.:		Ewing Mills Co.:	
cheese-----	9498	corn meal-----	9411
Chicago Smoked Fish Co.:		F. & M. Importing Co.:	
diced, glazed fruit-----	9538	tomato paste-----	9589
Cicardi Bros. Fruit & Produce		Faehndrick, William, Inc.:	
Co.:		cheese-----	9497
apples-----	9530	Fall River Canning Co.:	
City Roller Mills:		canned peas-----	9555, 9556
corn meal-----	9412	Farmers Cooperative Union, Inc.:	
Clapps Baby Food Div. <i>See</i>		frozen cherries-----	9535
American Home Foods, Inc.		Farmers Creamery Co.:	
Consolidated Grocers Corp.		butter-----	9483
(C. D. Kenny Division):		Farmers Union Coop. Creamery:	
flour, self-rising and plain----	9438	butter-----	9493
peas, canned-----	9563	Farmersburg Cheese Factory:	
Consolidated Pop Corn Co.:		Cheddar cheese-----	9501
popcorn-----	9464	Farrow Mercantile Co.:	
Covalda Date Co.:		canned beans in tomato sauce--	9545
dates-----	9512	Fine Foods, Inc.:	
Craddock Canning & Preserving		canned peas-----	9566
Co.:		Fingerlakes & Hudson Flour	
frozen peaches-----	9537	Mills, Inc.:	
Crown Mills:		whole wheat flour-----	9442
self-rising flour and plain flour--	9439	Fisch, Harold:	
Crutchfield, G. K., Jr., and G. W.:		peach flow-----	9539
corn meal-----	9404	Foote, D. E., & Co., Inc.:	
Dake, P. W. & C. V.:		tomato puree-----	9591
butter-----	9480	Foster & Wood Canning Co.:	
Decatur Milling Co., Inc.:		canned spinach-----	9575
corn meal-----	9407	Fowler Canning Co.:	
		canned peas-----	9565



	N. J. No.		N. J. No.
Fremont County Dairymen's Co-operative Marketing Assoc.:		Kellam, M. & J. B., Co.:	
Cheddar cheese-----	9500	chick peas-----	9572
Gary, J. H., & Co.:		Kenny, C. D., Co.:	
macerated dates-----	9513	canned peas-----	9563
Gerbo, D. L.:		Kenny, C. D., Division, Consolidated Grocers Corp.:	
macaroni, spaghetti, and egg noodles-----	9450	self-rising flour and plain flour-----	9438
Giles County Dairy Products Co.:		Kimbell Milling Co.:	
butter-----	9494	brewer's grits-----	9454
Golden America Fruit Prod. Co.:		Kinder, Albert:	
diced, glazed fruit-----	9538	apples-----	9530
Goldsmith Pickle Co.:		King Grocery Co.:	
sauerkraut-----	9573	self-rising flour-----	9436
Graham, Edward A., & Associates:		Klaas, Emil:	
popcorn-----	9465	apples-----	9533
Graunke, William, Warehouse:		Klindt-Geiger Canning Co.:	
flour-----	9423	canned peas-----	9567
Griggs, Cooper & Co.:		Kramer, J. R.:	
tomato puree-----	9596	butter-----	9487
Gwinn Bros. & Co.:		Kroger Grocery & Baking Co.:	
corn meal-----	9414	flour-----	9418
Gwinn Milling Co.:		La Sierra Heights Canning Co., Inc.:	
enriched flour-----	9446	tomato paste-----	9588, 9589
Hacker Flour Mills:		puree-----	9588
enriched flour-----	9447	Lakeside Packing Co.:	
Hardesty Milling Co.:		canned peas-----	9564
enriched flour-----	9444	Lapidus & Nutting:	
Hart & Howell Co.:		apples-----	9524
popcorn-----	9463	Lefevre Warehouse:	
Harter Packing Co.:		plain flour and pastry flour-----	9429
canned peaches-----	9506	Lipscomb Brothers:	
Heath, O. N.:		mung beans-----	9547
cheese-----	9495	Lipscomb Grain & Seed Co.:	
Heyd, C. G., & Co.:		corn meal-----	9405
butter-----	9469, 9490	Litteral Canning Co.:	
Holland Butter Co. (Division of Beatrice Creamery Co.):		canned turnip greens-----	9582
butter-----	9467	Lord Mott Co., Inc.:	
Homestead Bakery:		canned peas-----	9552
butter-----	9468	Majestic Flour Mill:	
Houghland Packing Co., Inc.:		self-rising flour-----	9435
tomato puree-----	9599	Manannah Creamery:	
Hunter Walton & Co.:		butter-----	9490
butter-----	9484, 9492	Marshall Canning Co.:	
Igleheart Bros., Inc.:		canned spinach-----	9579
plain, self-rising, and phosphated flour-----	9430	Martinelli, Albert:	
Indiana Flour Co., Inc. (Division of Igleheart Bros., Inc.):		macaroni, spaghetti, and egg noodles-----	9450
plain, self-rising, and phosphated flour-----	9430	Maser, F. E.:	
Indiana Wholesale Food Supply:		whole wheat flour and grits-----	9443
tomato catsup-----	9584	Matiasovich Bros.:	
International Milling Co.:		apples-----	9522
brewer's grits and flour-----	9417	Mayfield Milling Co., Inc.:	
Jacobs, Fred:		corn meal-----	9416
apples-----	9531	Maynard Cooperative Creamery:	
Jacobs, Henry:		butter-----	9469
apples-----	9527, 9532	Mel-Williams Co.:	
Jerpe Commission Co.:		tomato puree and tomato juice-----	9585
butter-----	9471	Midfield Packers:	
		frozen asparagus-----	9544
		Mitchell, John S., Inc.:	
		canned peas-----	9570
		Modern Food Products Co.:	
		dried mushrooms-----	9551

	N. J. No.		N. J. No.
Montana Service Corp.:		Plainview Oil Co., Inc.:	
butter-----	9485	popcorn-----	9459
Monticello Dairy, Inc.:		Pleasant Hill Canning Co.:	
butter-----	9472	tomato puree-----	9592
Morgan Packing Co.:		Postel, Philip H., Milling Co.:	
peas, canned-----	9568	whole wheat flour and grits-----	9443
tomato catsup-----	9584	Preston Rider Packing Co.:	
puree-----	9597	canned tomatoes-----	9583
Mott, Lord, Co., Inc.:		Preston-Shaffer Milling Co. <i>See</i>	
canned peas-----	9552	Western Milling Co.	
Mount Airy Sales Co.:		Pringle, R. D., & Co.:	
tomato puree-----	9591	frozen cherries-----	9536
Munsey Fruit Farm:		Pueblo Flour Mills Co.:	
apples-----	9521	flour-----	9419
Murdock Farmers Cooperative		Pure Foods Corp.:	
Creamery:		peach flow-----	9539
butter-----	9492	Puritan Mills:	
Muro Importing Co.:		flour-----	9420
wine vinegar-----	9543	Quaker Oats Co.:	
Nebraska Consolidated Mills Co.:		rolled oats-----	9456
phosphated flour-----	9425	Quint County Co-operative:	
New Ulm Roller Mill Co.:		butter-----	9466
pumpnickel flour-----	9431	Ray Brothers & Noble Canning	
Niagara Macaroni Mfg. Co., Inc.:		Co.:	
macaroni products-----	9452	tomato puree-----	9593
Norfolk Packing Co.:		Redwood Creamery:	
canned beans in tomato sauce--	9545	butter-----	9479
Norris Grain Co.:		Regent Canfood Co.:	
corn meal-----	9403	canned peas-----	9564
Nugent & Schapanski:		Richland Canning Corp.:	
apples-----	9525	canned peas-----	9553
Oconomowoc Canning Co.:		Rider, Preston, Packing Co.:	
canned peas-----	9558	canned tomatoes-----	9583
Oostburg Canning Co.:		Riverbank Canning Co.:	
canned peas-----	9569	tomato puree-----	9598
Orange Creamery:		Riverside Popcorn Sales:	
butter-----	9473	popcorn-----	9465
Orestes Canning Co.:		Riverview Canning Corp.:	
tomato puree-----	9595	canned peas-----	9554
Osseo Canning Co.:		Rodney Milling Co.:	
canned peas-----	9561	enriched flour-----	9445
Ossola, J., Co.:		Roeding Fig Co.:	
dried mushrooms-----	9549	figs-----	9514
Pacific Distributors:		Roeding Fig & Olive Co.:	
dates-----	9511	figs-----	9514
Pacific Frozen Foods Co.:		Roma Macaroni Factory, Inc.:	
frozen peas-----	9571	macaroni, spaghetti, and egg	
Pacific Macaroni Co.:		noodles-----	9450
macaroni-----	9451	Rosenberg Bros. & Co.:	
Parker Seed House:		raisins-----	9516
popcorn-----	9461	Royal Spice Distributors:	
Parrott & Co.:		dried mushrooms-----	9550
peaches, canned-----	9505	Ryan Grocery Co.:	
tomato puree-----	9590	raisins-----	9515
Patterson Milling Co.:		Sallisaw Canning Co.:	
corn meal-----	9410	spinach-----	9578
Pennsylvania Baking Co.:		San Juan Creamery Co.:	
flour-----	9421	butter-----	9488
Perry Canning Co.:		Schneider, W. B., Pickle & Vine-	
canned peas-----	9557	gar Co.:	
Peterson, E. L., Canning Co.:		sauerkraut-----	9574
turnip and mustard greens-----	9580	Schuckl & Co., Inc.:	
Phillips, Herman:		canned pears-----	9507
apples-----	9525		



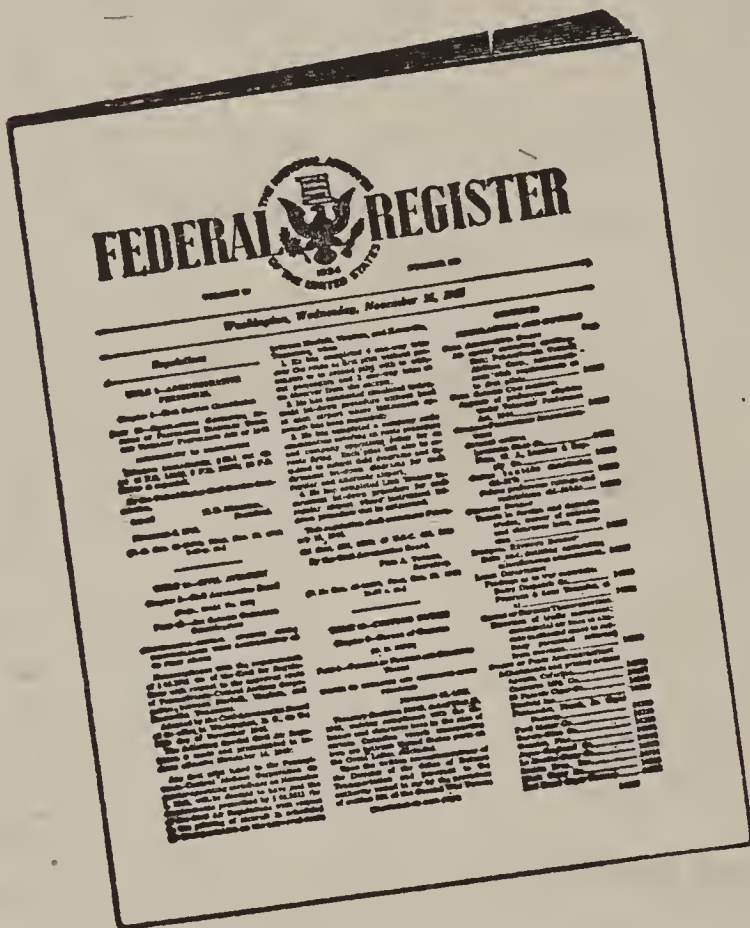
	N. J. No.		N. J. No.
Schultz Packing House:		Taylor Maid Co.:	
apples-----	9526	cheese-----	9496
Scott Co.:		Terminal & Transportation Ware-	
canned pears-----	9568	house:	
Scott County Milling Co.:		soy flour-----	9441
phosphated and self-rising		Tex-O-Kan Flour Mills Co.:	
flour-----	9426	enriched plain flour and en-	
Security Warehouse Co.:		riched phosphated flour-----	9448
brewer's rice grits-----	9455	Thornton Canning Co.:	
Sego Milk Products Co.:		tomato puree, tomato paste,	
butter-----	9478	and apricots-----	9590
Seguin Milling Co.:		Tigerton Foods:	
flour-----	9422	canned peas-----	9560
Shattuck Creamery:		Tip-Top Creamery Co.:	
butter-----	9486	butter-----	9467
Shawnee Milling Co.:		Tri-State Butter Co.:	
corn meal and phosphated and		butter-----	9474
self-rising flour-----	9408	Turtle Mountain Creamery:	
Shoaf, O. R.:		butter-----	9489
apples-----	9527	U-Tote-Em Grocery Co.:	
Silver's Food Products:		corn meal-----	9415
popcorn-----	9462	Uddo & Taormina Co.:	
South Mountain Dairies, Inc.:		tomato paste and tomato	
butter-----	9476	puree-----	9588
Southeastern Bakers Supply Co.:		United Grocers, Ltd.:	
raisins-----	9519	canned cherries-----	9502
Southland Products Co.:		United States Products Corp.,	
frozen strawberry puree-----	9541	Ltd.:	
Spokane Flour Mills Co.:		tomato juice-----	9586
pie flour-----	9428	Vagim Packing Co.:	
Springfield Sugar & Products Co.:		raisins-----	9519
canned beans with pork-----	9546	Valley Canning Co.:	
Standard Warehouse:		tomato puree and tomato juice--	9585
raisins-----	9517	Vanderveer & Coleman, Inc.:	
Stein-Hall:		dried pea beans-----	9548
rice flour-----	9432	Ver-Nal Canning Co.:	
Stoughton Canning Co.:		canned peaches-----	9504
canned peas-----	9555	Victor Wholesale Co.:	
Sun Garden Packing Co.:		popcorn-----	9458
tomato paste-----	9587	Walton, Hunter, & Co.:	
puree-----	9587, 9600	butter-----	9484, 9492
Sun Gold Gardens:		West Coast Grocery Co.:	
dates-----	9512	apricots-----	9590
Sunrise Orchards:		West Coast Growers & Packers:	
apples-----	9523	raisins-----	9519
Sunset Fruit Co.:		Western Creamery Co. Division.	
canned peaches-----	9506	See Sego Milk Products Co.	
Sunshine Packing Corp.:		Western Milling Co. (Division of	
red raspberry puree-----	9540	Preston-Shaffer Milling Co.):	
Sycamore Preserve Works Corp.:		plain flour and pastry flour----	9429
canned peas-----	9562	Wieneke, G. W., & Son:	
T. & O. Sales Co.:		apples-----	9528
butter-----	9486	Wieneke, P. W.:	
Taormina, V. G.:		apples-----	9529
tomato paste and tomato puree--	9588	Wisconsin Canning Co.:	
		canned peas-----	9566





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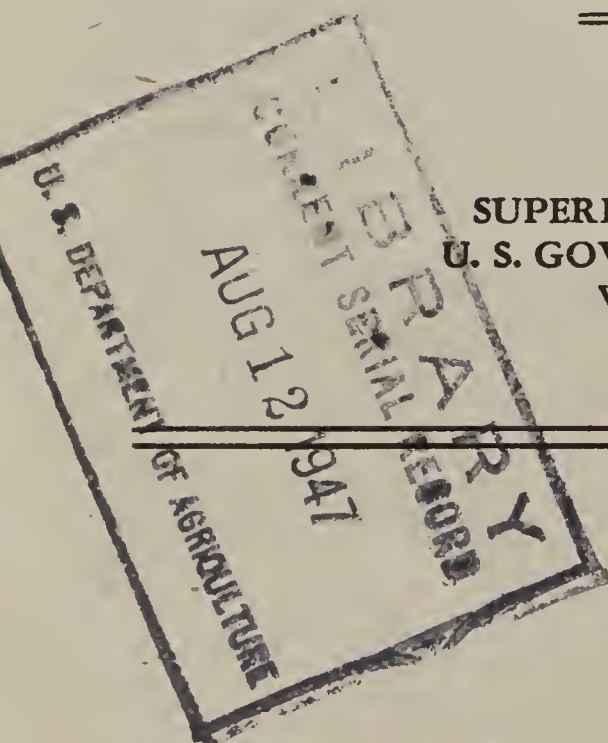
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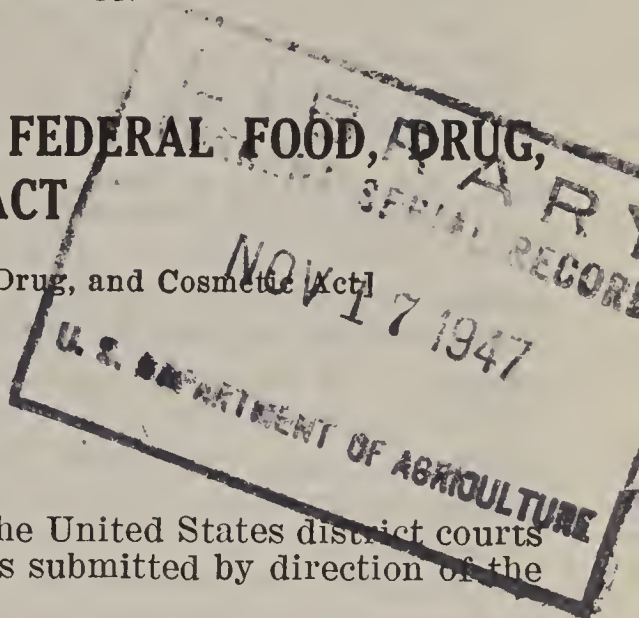
## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

9601-9800

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., May 29, 1947.

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#### BEVERAGES AND BEVERAGE MATERIALS

**9601. Adulteration of beer. U. S. v. 916 Cases of Beer (and 2 other seizure actions against beer).** One action tried to the court. Judgment for the Government. Decree of condemnation and destruction; default decree of condemnation and destruction entered in remaining actions. (F. D. C. Nos. 17157, 17268, 17488. Sample Nos. 36417-H, 36419-H, 36422-H.)

**LIBELS FILED:** Between August 23 and September 19, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about February 5 and 10, 1944, by the Commonwealth Brewing Corp., from Springfield, Mass.

**PRODUCT:** 1,125 cases, each containing 24 bottles, of beer at Seattle, Wash. Analysis disclosed that the product contained between 19 parts and 25 parts per million of fluorine.

**LABEL, IN PART:** (Bottle) "Contents 12 Fl. Ozs. Oxford Brand Beer."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product contained an added poisonous and deleterious substance, fluorine, which is unsafe within the meaning of the law since it is a substance not required in the production of the beer and could have been avoided by good manufacturing practice.



**DISPOSITION:** On November 30, 1945, W. R. Vaughn, trading as the Alaska Pacific Sales Co., and Kate Johnson, having appeared as claimants to contest the seizure of the 916-case lot, the matter came on for trial. On December 17, 1945, after consideration of the testimony and the arguments of counsel, the court handed down its findings of fact and conclusions of law that the product was adulterated as alleged in the libel. The court then ordered that the product be condemned and destroyed. On January 17, 1946, no claimant having appeared for the other lots, judgments of condemnation were entered and those lots were ordered destroyed.

**9602. Adulteration of beer. U. S. v. 67 Cases of Beer. Default decree of condemnation and destruction. F. D. C. No. 16977. Sample No. 36242-H.)**

**LIBEL FILED:** August 4, 1945, District of Oregon.

**ALLEGED SHIPMENT:** Between the approximate dates of September 6, 1944, and October 26, 1945, by the Perplies Brewing Co., from Jefferson, Wis.

**PRODUCT:** 67 cases, each containing 24 12-ounce bottles, of beer at Milwaukee, Wis.

**LABEL, IN PART:** "Perplies Beer."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of clumps of mold and nondescript dirt.

**DISPOSITION:** September 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9603. Adulteration and misbranding of grape juice. U. S. v. 18 Cases of Grape Juice (and 5 other seizure actions against grape juice). Default decrees of condemnation and destruction. (F. D. C. Nos. 15357, 16076, 16125, 16297, 16344, 16370. Sample Nos. 5610-H, 5826-H, 5831-H, 6156-H, 6158-H, 6979-H.)**

**LIBELS FILED:** On or about March 10, April 30, May 8 and 25, and June 5 and 20, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** Between the approximate dates of October 6 and December 18, 1944, by the Superior Packing Co., from New York, N. Y.

**PRODUCT:** Grape Juice. 44 bottles and 187 cases at Newark, N. J.; 12 cases at Passaic, N. J.; and 150 cases at Irvington, N. J. Each case contained 12 bottles.

**LABEL, IN PART:** "Capitol Brand Grape Juice \* \* \* Aurora Juices Packing Co., Distributors, Albany, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially flavored and colored mixture of water, sugar, and acid or acids, had been substituted in whole or in part for grape juice; and, Section 402 (b) (4), artificial flavoring and coloring had been added to the product and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the label statement, "Grape Juice Made from: Concentrated Grape Juice Sugar Added," was false and misleading; and, Section 403 (k), the article contained artificial flavoring and coloring, and it failed to bear labeling stating that fact.

**DISPOSITION:** May 11, July 13, 23, and 30, 1945, and May 13, 1946. The United Food Co., Irvington, N. Y., claimant for the Irvington lot, having withdrawn its claim, and no claimant having appeared for the other lots, judgments of condemnation were entered and the product was ordered destroyed.

**9604. Adulteration of canned orange juice. U. S. v. 510 Cases of Orange Juice (and 6 other seizure actions against orange juice). Default decrees of condemnation and destruction. (F. D. C. Nos. 16939, 17123, 17124, 17141, 17651, 17652, 17924. Sample Nos. 3118-H, 3119-H, 6175-H, 6176-H, 31660-H, 31676-H, 31799-H.)**

**LIBELS FILED:** July 28, August 20 and 22, and October 11, 1945, Southern District of California, District of Columbia; and Southern District of New York.

**ALLEGED SHIPMENT:** Between the approximate dates of March 31 and April 27, 1945, by the Christensen Products Co., from Haines City, Fla.

**PRODUCT:** Orange juice. 590 cases at San Diego, Calif.; 395 cases at Washington, D. C.; 390 7/24 cases at Los Angeles, Calif.; and 425 cases at New York, N. Y. Each full case contained 24 1-pint, 2-ounce cans, of the product.

**LABEL, IN PART:** "Tropic Gold Brand Fancy Unsweetened Orange Juice."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots, insect eggs, and insect fragments.

**DISPOSITION:** September 7 and 18, November 1 and 14, and December 6, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9605. Adulteration of concentrated orange juice. U. S. v. 48 Cases of Concentrated Orange Juice. Default decree of condemnation and destruction.** (F. D. C. No. 16893. Sample No. 18765-H.)

**LIBEL FILED:** July 23, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about August 6, 1943, by the Consolidated Freight Forwarding Co., from Oakland, Calif.

**PRODUCT:** 48 cases, each containing 4 1-gallon jugs, of concentrated orange juice at St. Paul, Minn. Examination showed that the product was undergoing decomposition.

**LABEL, IN PART:** "Hulburt's Brand Concentrated California Orange Juice Packed by Fruit Products of America Arcadia, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9606. Adulteration of orange concentrate. U. S. v. 42 Barrels of Orange Concentrate. Default decree of condemnation and destruction.** (F. D. C. No. 17165. Sample No. 23998-H.)

**LIBEL FILED:** September 20, 1945, Northern District of Alabama.

**ALLEGED SHIPMENT:** Portion of product shipped on or about August 8, 1945, by the Dairy and Ice Cream Supply Co., from Atlanta, Ga.; remainder shipped on an unknown date by the Harrison's Orange Corporation, from Chicago, Ill.

**PRODUCT:** 42 barrels of orange concentrate at Birmingham, Ala. Examination showed that the product contained approximately 2,300 parts per million of monochloroacetic acid.

**LABEL, IN PART:** "Harrison's Orange Hut Orange All Sugar Added," or "Harrison's Day-Ray Orange Flavor Syrup All Sugar Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the product and could have been avoided by good manufacturing practice.

**DISPOSITION:** October 22, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9607. Adulteration of raisin brandy. U. S. v. 26 Drums of Raisin Brandy. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 16847, 16993. Sample Nos. 16768-H, 16769-H.)

**LIBELS FILED:** July 23 and August 13, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 20, 1945, by the Fresno Warehouse Co., from Fresno, Calif.

**PRODUCT:** 21 drums and 5 drums of raisin brandy at Chicago, Ill.

**LABEL, IN PART:** "Crest View Winery Inc. Sanger Cal F. D. 77 Raisin Brandy," or "Neutral Raisin Brandy."

**NATURE OF CHARGE:** (21 drum lot) Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of excessive quantities of aldehydes; and, Section 402 (b) (2), a substance containing excessive quantities of aldehydes had been substituted in whole or in part for raisin brandy. (5 drum lot) Adulteration, Section 402 (a) (1), the article contained a poisonous or deleterious substance, fusel oil, which may have rendered it injurious to health; and, Section 402 (a) (3), it was unfit for food by reason of the presence of an excessive amount of fusel oil.

**DISPOSITION.** December 3, 1945. The Flora Wine Co., Chicago, Ill., claimant, having admitted the facts set forth in the libel, judgments of condemnation were entered and the product was ordered released under bond to be redistilled under the supervision of the Food and Drug Administration.



## CEREALS AND CEREAL PRODUCTS

## BAKERY PRODUCTS\*

**9608. Action to enjoin and restrain the interstate shipment of adulterated bakery products. U. S. v. Connecticut Pie Co., and Mendel Behrend. Consent decree entered granting permanent injunction. (Inj. No. 132.)**

**COMPLAINT FILED:** November 2, 1945, in the District of Columbia, against the Connecticut Pie Co., a corporation, and Mendel Behrend, treasurer and general manager of the corporation. The complaint alleged that the defendants had been and were manufacturing in the District of Columbia, and were introducing and delivering for introduction into interstate commerce, bakery products which were adulterated. The complaint alleged also that investigation and examination of the premises of the defendant corporation on October 30, 1945, disclosed that the conditions under which food was prepared, packed, and held therein were insanitary whereby the food may have been contaminated with filth and rendered injurious to health; that on October 27, 1945, at the Suburban Hospital in Bethesda, Montgomery County, Md., a number of persons became ill and suffered food poisoning as a result of eating pies manufactured by the defendants within the District of Columbia; that these pies were introduced into interstate commerce by the defendants; and that foods prepared under the insanitary conditions existing in the plant of the defendant endangered the health and well-being of those who consumed them.

The complaint alleged further that on December 15, 1945, a criminal information was filed in the District of Columbia, charging the corporate defendant with manufacturing in the District of Columbia and introducing into interstate commerce, foods that were adulterated in violation of Section 402 (a) (3) and (4); and that a plea of guilty was entered on behalf of the defendant, and fines of \$200 were imposed on each of 5 counts.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the products contained poisonous and deleterious substances which may have rendered them injurious to health; Section 402 (a) (3), they consisted in whole or in part of filthy, putrid, and decomposed substances; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth and whereby they may have been rendered injurious to health.

**PRAYER OF COMPLAINT:** That a preliminary injunction issue restraining the defendants from commission of the acts complained of, and that, after due proceedings, the preliminary injunction be made permanent.

**DISPOSITION:** The defendants were ordered to show cause why a preliminary injunction should not issue as prayed. On November 2, 1945, a temporary restraining order was entered. On November 26, 1945, the matter having come on for hearing, the defendants consented to the issuance of a preliminary injunction, and the court made the following findings of fact and conclusions of law:

H. A. SCHWEINHOUT, *District Judge*: "On the allegations of the complaint for Injunction which are supported by the facts set forth in the affidavits attached thereto, I find the following facts:

"1. The defendants have been manufacturing within the District of Columbia food that consists in whole or in part of filthy or putrid substances.

"2. The defendants have been manufacturing within the District of Columbia food that is prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth.

"3. The defendants have been introducing or delivering for introduction into commerce in the District of Columbia food that has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth.

"Upon the foregoing facts the following conclusions of law are stated:

"1. The Defendants have been manufacturing within the District of Columbia in violation of 21 U. S. C. 331 (g) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4).

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\*See also No. 9689.



"2. The Defendants have been introducing or delivering for introduction into commerce in the District of Columbia in violation of 21 U. S. C. 331 (a) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4)."

On March 11, 1946, the defendants having consented to the entry of a decree, judgment was entered ordering that the defendants, Mendel Behrend and the Connecticut Pie Co., a corporation, and agents, servants, and employees and all persons acting in concert with them, be permanently enjoined from manufacturing in the District of Columbia, any food that consisted in whole or in part of filthy or putrid substances; or any food that had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; and from introducing or delivering for introduction into commerce in the District of Columbia any food so adulterated.

**9609. Adulteration of bakery products. U. S. v. Carolina Moon Pie Co., a partnership, and Otto Joseph Caudle. Plea of guilty. Partnership fined \$500. Judgment suspended for 1 year against individual defendant. (F. D. C. No. 16504. Sample Nos. 215-H, 221-H, 222-H, 224-H, 225-H.)**

**INFORMATION FILED:** August 31, 1945, Western District of North Carolina, against the Carolina Moon Pie Co., a partnership, Charlotte, N. C., and Otto Joseph Caudle, a partner.

**ALLEGED SHIPMENT:** On or about March 2, 14, 15, and 16, 1945, from the State of North Carolina into the State of South Carolina.

**LABEL, IN PART:** "Dad's Carolina Apple Pies [or "Honey Dipped Doughnuts"]  
\* \* \* J. Q. Hudgins Charlotte, N. C."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** October 2, 1945. A plea of guilty having been entered, the partnership was fined \$500, and judgment was suspended for 1 year against the individual defendant.

**9610. Adulteration and misbranding of bakery products. U. S. v. George J. Panos and Peter J. Panos (Tip Top Bakery). Pleas of guilty. Fine, \$100. (F. D. C. No. 16514. Sample Nos. 27471-H, 27472-H, 27476-H.)**

**INFORMATION FILED:** September 27, 1945, District of Oregon, against George J. Panos and Peter J. Panos, trading as the Tip Top Bakery, Portland, Ore.

**ALLEGED SHIPMENT:** On or about May 5, 1945, from the State of Oregon into the State of Washington.

**LABEL, IN PART:** "Tip Top White Sliced Enriched Bread," "Tip Top Bread Dutch Crunch," or "Tip Top Butter Cream Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (bread and cake) the articles consisted in whole or in part of filthy substances by reason of the presence of insect and larvae fragments; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), (cake) the statement "Butter Cream" on the wrappers of the article was false and misleading since it represented and suggested that the article contained butter and cream, whereas it failed to contain those ingredients.

**DISPOSITION:** November 5, 1945. A plea of guilty having been entered, the court imposed a fine of \$25 on each count, a total fine of \$100.

**9611. Adulteration of cake. U. S. v. Yur Favorit Cake Co., William H. Hauck, and Herbert H. Quitmeyer. Pleas of nolo contendere. Fines, \$1,000 against corporate defendant and \$250 against each individual defendant. (F. D. C. No. 16524. Sample Nos. 80287-F, 89968-F, 89969-F, 89971-F.)**

**INFORMATION FILED:** August 7, 1945, Eastern District of Missouri, against the Yur Favorit Cake Co., a corporation, St. Louis, Mo., William H. Hauck, vice-president and treasurer of the corporation, and Herbert H. Quitmeyer, plant manager.

**ALLEGED SHIPMENT:** On or about August 18 and November 3, 1944, from the State of Missouri into the State of Illinois.

**LABEL, IN PART:** "Yur-Favorit \* \* \* Cup Cakes," or "Yur-Favorit Cake Banana Bar [or "Jelly Roll"]."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, hair fragments resembling rodent hair, feather barbules, and an insect and a mite; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 26, 1945. Pleas of nolo contendere having been entered, the corporate defendant was sentenced to pay a fine of \$1,000, and each individual defendant a fine of \$250.

**9612. Adulteration of bread and rolls. U. S. v. Colonial Stores, Inc., and Benjamin R. Kirby. Pleas of nolo contendere. Each defendant fined \$400.** (F. D. C. No. 16501. Sample Nos. 2282-H, 2296-H, 2297-H, 2299-H to 2301-H, incl.)

**INFORMATION FILED:** November 5, 1945, Eastern District of Virginia, against the Colonial Stores, Inc., a corporation, and Benjamin R. Kirby, plant superintendent.

**ALLEGED SHIPMENT:** On or about March 26 and April 6, 1945, from the State of Virginia into the State of North Carolina.

**LABEL, IN PART:** (Bread) "Thin Sliced \* \* \* Sandwich Triple Fresh," or "Triple Fresh 100% Whole Wheat Sandwich Bread Sliced"; (rolls) "Pan-O-Pride \* \* \* Pender Daylight Bakeries Norfolk, Va. Charlotte, N. C."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, including large body parts and adult insect heads, larvae, larva head capsules, mites, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** December 19, 1945. Pleas of nolo contendere having been entered, each defendant was fined \$400.

**9613. Adulteration of bread and wafers. U. S. v. 23 Cartons of Ry-Krisp Bread and 13 Cartons of Wafers. Default decree of condemnation and destruction.** (F. D. C. Nos. 17033, 17034. Sample Nos. 18775-H to 18777-H, incl.)

**LIBELS FILED:** August 9, 1945, District of South Dakota.

**ALLEGED SHIPMENT:** On or about July 14, 1945, by the Ralston-Purina Co., Ry-Krisp Division, from Minneapolis, Minn.

**PRODUCT:** 23 cartons, each containing 24 7¼-ounce packages, of Ry-Krisp bread and 13 cartons, each containing 18 12-ounce packages, of Ry-Krisp wafers at Sioux Falls, S. Dak.

**LABEL, IN PART:** "Family Style Ry-Krisp Scandinavian Style Bread," or "Ry-Krisp \* \* \* Wafer."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, larvae, and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** September 18, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

**9614. Adulteration of ice cream cones. U. S. v. Arthur Shapiro (Maryland Baking Co.). Plea of guilty. Fine, \$500.** (F. D. C. No. 10560. Sample Nos. 9930-F, 9931-F, 28465-F, 28467-F, 28684-F to 28686-F, incl.)

**INFORMATION FILED:** November 23, 1945, Northern District of Georgia, against Arthur Shapiro, trading as the Maryland Baking Co., Atlanta, Ga.

**ALLEGED SHIPMENT:** Between the approximate dates of November 25, 1942, and January 21, 1943, from the State of Georgia into the States of Louisiana, North Carolina, and Florida.

**LABEL, IN PART:** "Duble Heder Ice Cream Cones," "Torch Cup Cake Cones," or "Flare Tops Dripless Cake Cones."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, hair fragments resembling rodent or cat hairs, human hair fragments, insect fragments, larvae, weevils, feather barbs, and unidentified



hairs; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 12, 1946. A plea of guilty having been entered, the defendant was fined \$500.

**9615. Adulteration and misbranding of ice cream cones. U. S. v. 15 Cases of Ice Cream Cones (and 2 other seizure actions against ice cream cones). Default decrees of condemnation and destruction.** (F. D. C. Nos. 16705, 17086, 17087. Sample Nos. 3113-H, 11178-H, 11180-H, 11181-H.)

**LIBELS FILED:** July 20 and August 4, 1945, District of Columbia and District of Maine.

**ALLEGED SHIPMENT:** June 25 and 28 and July 3, 1945, by the Eastern Baking Co., from Chelsea, Mass.

**PRODUCT:** Ice cream cones. 150 cartons at Washington, D. C., 50 cartons at Bath, Maine, and 1,100 cartons at Lewiston, Maine. Each carton contained 100 ice cream cones.

**LABEL, IN PART:** (Cartons) "Toot Cake Cup Cones," "Tops in Taste Fro-joy dripless Ice Cream Cake Cones," or "Fro-joy Cake Cones Guarantee of Purity Fro-joy Cones are made under rigid, sanitary conditions."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and (Bath lot) larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), (one lot) the statement on the carton, "made under rigid, sanitary conditions," was false and misleading.

DISPOSITION: September 25 and November 14, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9616. Adulteration of rye knackebrod and rye hardtack. U. S. v. 88 Cases of Rye Knackebrod and 72 Cartons of Rye Hardtack. Default decrees of condemnation and destruction.** (F. D. C. Nos. 16918, 16950. Sample Nos. 18254-H, 18255-H, 20767-H, 20768-H.)

**LIBELS FILED:** On or about July 26 and August 6, 1945, Southern District of Iowa and Western District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of May 16 and July 5, 1945, by the Ser Baking Co., from Minneapolis, Minn.

**PRODUCT:** 88 cases, each containing 12 ½-pound packages, of rye knackebrod at Des Moines, Iowa; and 23 cartons, each containing 24 ½-pound packages, and 49 cartons, each containing 12 ½-pound packages, of rye hardtack at Kansas City, Mo.

**LABEL, IN PART:** "Manchester's Swedish Style Rye Knackebrod," or "Ser-Ry."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments, insects, and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: August 22 and October 12, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

**9617. Adulteration of Rytak. U. S. v. 51 Cases of Rytak. Default decree of condemnation and destruction.** (F. D. C. No. 16806. Sample No. 27840-H.)

**LIBEL FILED:** July 25, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about June 20, 1945, by Hudson Duncan and Co., from Seattle, Wash.

**PRODUCT:** 51 cases, each containing about 25 pounds, of Rytak at Portland, Oreg.

**LABEL, IN PART:** "Rytak Knackerbrod Made from Pure Rye."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles.

DISPOSITION: September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9618. Adulteration of saltine crackers. U. S. v. 276 Cases of Saltine Crackers. Default decree of condemnation and destruction. (F. D. C. No. 16936. Sample No. 18773-H.)**

**LIBEL FILED:** July 30, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about June 26 and July 3, 1945, by the Schulze and Burch Biscuit Co., from Chicago, Ill.

**PRODUCT:** 276 cases, each containing 6 packages, of saltine crackers at Mankato, Minn.

**LABEL, IN PART:** "Schulze and Burch Saltine Crackers (Paradise)."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insects, and insect fragments.

**DISPOSITION:** September 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed unless reprocessed for animal feed, under the supervision of the Food and Drug Administration. The product was accordingly disposed of by the United States marshal for use as hog feed.

#### CORN MEAL

**9619. Adulteration of corn meal. U. S. v. 850 Bags, 350 Bags, and 850 Bags of Corn Meal (and 2 other seizure actions against corn meal). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16971, 17763, 18347. Sample Nos. 22783-H, 23778-H, 52510-H.)**

**LIBELS FILED:** August 2, October 8, and November 5, 1945, Eastern District of Texas and Western and Eastern Districts of Kentucky.

**ALLEGED SHIPMENT:** Between the approximate dates of June 16 and October 6, 1945, by the Staley Milling Co., Kansas City and North Kansas City, Mo.

**PRODUCT:** Corn meal. 850 25-pound bags, 350 10-pound bags, and 850 5-pound bags at Tyler, Tex.; 175 100-pound bags at Paducah, Ky.; and 2,000 10-pound bags and 1,600 25-pound bags at Ashland, Ky.

**LABEL, IN PART:** "Staley's 4 Bells [or "Old Fashion White"] Cream Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent excreta fragments, rodent hair fragments, beetles, and larvae.

**DISPOSITION:** August 29, November 19, and December 13, 1945. Howard Dodd Co., Tyler, Tex., claimant for the Tyler lot, Edwin C. Hawkins, Paducah, Ky., claimant for the Paducah lot, and the Staley Milling Co., claimant for the Ashland lot, having consented to the entry of the respective decrees, judgments of condemnation were entered and the product was ordered released under bond to be converted into animal feed, under the supervision of the Food and Drug Administration.

**9620. Adulteration of corn meal. U. S. v. 2,135 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16747. Sample Nos. 23005-H, 23006-H, 23008-H.)**

**LIBEL FILED:** June 30, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about April 2 and 25, 1945, from Crete and Omaha, Nebr.

**PRODUCT:** 84 50-pound bags and 2,051 25-pound bags of corn meal at Memphis, Tenn., in the possession of W. B. Mallory and Sons Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained rodent excreta, rodent hair fragments, beetles, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 6, 1945. W. B. Mallory and Sons Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and conversion of the unfit portion into stock feed, under the supervision of the Food and Drug Administration.



**9621. Adulteration of corn meal. U. S. v. 119 Bags of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 16798. Sample No. 13188-H.)**

**LIBEL FILED:** July 5, 1945, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about June 21, 1945, by the Eckerty Flour Mills, from Eckerty, Ind.

**PRODUCT:** 29 25-pound bags, 82 10-pound bags, and 8 5-pound bags of corn meal at Louisville, Ky.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** September 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9622. Adulteration of corn meal. U. S. v. 97 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16942. Sample No. 23991-H.)**

**LIBEL FILED:** On or about August 9, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about June 1 and 4, 1945, by the Meridian Grain and Elevator Co., from Meridian, Miss.

**PRODUCT:** 97 100-pound bags of corn meal at Demopolis, Ala.

**LABEL, IN PART:** "Nun Better Meal Old Style Unbolted Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets, rodent hair fragments, weevils, and larvae.

**DISPOSITION:** October 9, 1945. The Demopolis Wholesale Grocery Co., Demopolis, Ala., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Food and Drug Administration.

**9623. Adulteration of corn meal. U. S. v. 75 Bags of Corn Meal. Consent decree of condemnation and destruction. (F. D. C. No. 17135. Sample No. 13747-H.)**

**LIBEL FILED:** August 18, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 5, 1945, by the General Foods Corporation, from Kankakee, Ill.

**PRODUCT:** 75 100-pound bags of filter press corn meal at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, moths, larvae, and insect fragments.

**DISPOSITION:** September 12, 1945. The Basic Food Materials, Inc., Cleveland, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into poultry feed, under the supervision of the Food and Drug Administration.

**9624. Adulteration of corn meal. U. S. v. 70 Bags of Corn Meal. Default decree of condemnation. Product ordered destroyed or disposed of as hog feed. (F. D. C. No. 15204. Sample No. 24108-H.)**

**LIBEL FILED:** March 7, 1945, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about November 13, 1944, by the Shawnee Milling Co., from Shawnee, Okla.

**PRODUCT:** 70 100-pound bags of corn meal at Pensacola, Fla.

**LABEL, IN PART:** "Silver Swan Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hairs, and insect fragments.

**DISPOSITION:** April 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a Federal correctional institution for use as hog feed.



**9625. Adulteration of corn meal. U. S. v. 66 Bags of Corn Meal. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 17023. Sample No. 13437-H.)

**LIBEL FILED:** August 10, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 10, 1945, by the Anchor Milling Co., from Rochester, Ind.

**PRODUCT:** 66 100-pound bags of corn meal at Toledo, Ohio.

**LABEL, IN PART:** "Our Best Southern Plantation Yellow Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments.

**DISPOSITION:** September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned that it be denatured and used for stock feed.

#### FLOUR

Nos. 9626 to 9656 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.) The flour reported in No. 9658 failed to meet the standard for enriched flour.

**9626. Adulteration of flour. U. S. v. 169 Bags of Flour (and 3 other seizure actions against flour). Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 16865, 17036 to 17038, incl. Sample Nos. 24065-H, 24375-H, 24540-H, 24541-H.)

**LIBELS FILED:** Between July 17 and August 14, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** Between the approximate dates of June 18 and July 3, 1945, by the Morrison Milling Co., from Denton, Tex.

**PRODUCT:** 1,039 100-pound sacks of flour at New Orleans, La. Examination showed that the product contained insect fragments, insect excreta, and rodent hair fragments.

**LABEL, IN PART:** "Morrison's Famous Baker Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), a portion had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 12, 1945. The Morrison Milling Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

**9627. Adulteration of flour. U. S. v. 869 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16925. Sample No. 24702-H.)

**LIBEL FILED:** July 26, 1945, Middle District of Alabama.

**ALLEGED SHIPMENT:** On or about June 2, 1945, from Mount Vernon, Ind.

**PRODUCT:** 572 10-pound bags, 214 25-pound bags, and 83 50-pound bags of flour at New Brockton, Ala., in the possession of S. T. Jones. The product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and urine stains were observed on them. The product contained weevils and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 10, 1945. S. T. Jones, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Federal Security Agency.

**9628. Adulteration of flour. U. S. v. 102 Bags and 300 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. Nos. 16802, 16938. Sample Nos. 24532-H, 24801-H.)

**LIBELS FILED:** On or about July 18 and August 1, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 14 and July 3, 1945, by the Bewley Mills, from Fort Worth, Tex.

**PRODUCT:** 402 100-pound bags of flour at New Orleans, La. Examination showed that the product contained insect fragments and insect excreta.

**LABEL, IN PART:** "Anchor Hard Wheat Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 29, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9629. Adulteration of flour. U. S. v. 350 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16855. Sample No. 17465-H.)

**LIBEL FILED:** July 23, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 11, 1945, by the International Milling Co., from Wabasha, Minn.

**PRODUCT:** 350 100-pound bags of flour at Chicago, Ill.

**LABEL, IN PART:** "Bohemia Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** August 27, 1945. The Rytina Baking Co., Chicago, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, to be used for purposes other than human consumption, under the supervision of the Food and Drug Administration.

**9630. Adulteration of flour. U. S. v. 340 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17052. Sample No. 18263-H.)

**LIBEL FILED:** August 17, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about May 21 and 28, 1945, by the Cuba Roller Mills, from Cuba, Mo.

**PRODUCT:** 340 100-pound bags of flour at Burlington, Iowa.

**LABEL, IN PART:** "20th Century Soft Wheat Flour Unbleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 28, 1945. The Midwest Biscuit Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, to be denatured under the supervision of the Federal Security Agency so that the flour could not be used for human consumption.

**9631. Adulteration of flour. U. S. v. 132 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16952. Sample No. 24637-H.)

**LIBEL FILED:** On or about August 1, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about April 10, 1945, from Kansas City, Mo.

**PRODUCT:** 132 100-pound bags of flour at Mobile, Ala., in the possession of the Ballard and Ballard Co. The article was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained weevils and larvae.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 24, 1945. The Ballard and Ballard Company, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Food and Drug Administration.

**9632. Adulteration of flour. U. S. v. 120 Bags of Flour. Default decree of condemnation. Product ordered sold for use in the manufacture of animal feed.** (F. D. C. No. 16811. Sample No. 29653-H.)

**LIBEL FILED:** July 10, 1945, Southern District of California.

**ALLEGED SHIPMENT:** Between the approximate dates of October 3, 1944, and February 1, 1945, from Seattle, Wash.

**PRODUCT:** 120 100-pound bags of flour at Fresno, Calif., in the possession of the State Center Warehouse and Cold Storage Co. The product was stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the bags, and examination showed that the product contained beetles and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for use in the manufacture of animal feed, under the supervision of the United States marshal.

**9633. Adulteration of flour. U. S. v. 33 Bags and 167 Cases of Flour. Default decrees of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. Nos. 16956, 16957. Sample Nos. 2328-H, 2329-H.)

**LIBELS FILED:** On or about August 1, 1945, Western District of Virginia.

**ALLEGED SHIPMENT:** On or about March 6 and May 4, 1945, from Louisville, Ky., and Buffalo, N. Y.

**PRODUCT:** 33 100-pound bags, 71 cases, each containing 5 10-pound bags, and 96 cases, each containing 10 5-pound bags, of flour at Danville, Va., in the possession of J. W. Wyatt and Co., Inc. The product was stored under insanitary conditions after shipment. Some of the cases and bags were rodent-gnawed, and rodent excreta and urine stains were observed on some of the bags. Samples of the flour were found to be contaminated with rodent excreta and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 6 and October 26, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to a charitable institution, for use other than human consumption.

**9634. Adulteration of flour. U. S. v. 134 Bales of Flour. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 17040. Sample No. 22369-H.)

**LIBEL FILED:** August 13, 1945, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about February 8, 1945, by the Inland Mills, Inc., from Des Moines, Iowa.

**PRODUCT:** 134 bales, each containing 10 5-pound bags, of flour at Peoria, Ill.

**LABEL, IN PART:** "Bleached \* \* \* Companion Brand Fancy Patent Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, to be denatured and used as animal and poultry feed.

**9635. Adulteration of flour. U. S. v. 140 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17171. Sample No. 481-H.)

**LIBEL FILED:** August 22, 1945, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about June 23, 1945, from Nashville, Tenn.

**PRODUCT:** 140 25-pound bags of flour at Monticello, Ga., in the possession of J. S. Wilson. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 22, 1945. J. S. Wilson, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**9636. Adulteration of flour. U. S. v. 30 Bags of Flour. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 16473. Sample No. 24604-H.)

**LIBEL FILED:** June 15, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about April 10, 1945, by the Shawnee Milling Co., from Shawnee, Okla.

**PRODUCT:** 30 100-pound bags of flour at New Orleans, La.

**LABEL, IN PART:** "Bleached Flour Pan Buster Bakers Patent."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned that the purchaser denature the flour, under the supervision of the Food and Drug Administration, so that it could be used as animal feed.

**9637. Adulteration of flour. U. S. v. 13 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17024. Sample No. 22692-H.)

**LIBEL FILED:** August 14, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about February 27, 1945, by the Fredericktown Milling Co., from Fredericktown, Mo.

**PRODUCT:** 13 140-pound bags of flour at Union City, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

**DISPOSITION:** October 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9638. Adulteration of corn flour. U. S. v. 56 Bags of Corn Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17053. Sample No. 799-H.)

**LIBEL FILED:** September 20, 1945, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about July 13 and August 14, 1945, by the J. R. Short Milling Co., from Memphis, Tenn.

**PRODUCT:** 56 100-pound bags of corn flour at Macon, Ga.

**LABEL, IN PART:** "Wytase Dough Whitener Processed White Corn Flour and Enzyme."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.



**DISPOSITION:** October 2, 1945. The Thomas Baking Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Food and Drug Administration.

**9639. Adulteration of doughnut flour. U. S. v. 115 Bags of Doughnut Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16752. Sample No. 23014-H.)

**LIBEL FILED:** June 30, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of May 1 and June 5, 1945, from Dallas, Tex.

**PRODUCT:** 115 100-pound bags of doughnut flour at Memphis, Tenn., in the possession of the Southern Maid Donut Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, beetles, larvae, and insect fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 12, 1945. The Southern Maid Donut Co., Memphis, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted for use other than human consumption, under the supervision of the Federal Security Agency.

**9640. Adulteration of whole wheat flour, rye flour, and plain flour. U. S. v. 15 Bags of Whole Wheat Flour (and 3 other seizure actions against whole wheat flour, rye flour, and plain flour). Decrees of condemnation. Two lots ordered released under bond; one lot ordered sold to be denatured for use as hog feed, and remaining lot ordered destroyed.** (F. D. C. Nos. 17152, 17671, 17725, 18084. Sample Nos. 7779-H, 14207-H to 14209-H, incl., 14212-H, 14213-H, 52603-H.)

**LIBELS FILED:** August 20, September 25, October 3, and November 7, 1945, Middle District of Pennsylvania, Southern District of Ohio, and Southern District of Indiana.

**ALLEGED SHIPMENT:** Between the approximate dates of March 28 and August 1, 1945, by the King Midas Flour Mills, Hastings and Minneapolis, Minn.

**PRODUCT:** 15 bags of whole wheat flour at Scranton, Pa.; 61 bags of rye flour, 10 bags of whole wheat flour, and 45 bags of plain flour at Cincinnati, Ohio; and 10 bags of plain flour at Indianapolis, Ind. Each bag contained 100 pounds of flour.

**LABEL, IN PART:** "King Midas Pure Dark Rye [or "Fine Whole Wheat," or "Pure Medium Rye"] Flour," "Bracer Fancy First Clear Flour," or "Fancy Clear Vermillion Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, insects, insect excreta, larvae, beetles, and weevils.

**DISPOSITION:** October 17 and 18 and December 12, 1945. The King Midas Flour Mills, claimant for the Cincinnati lots, having admitted the allegations of the libels, judgments of condemnation were entered and those lots were ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration. No claimant having appeared for the remaining lots, judgments of condemnation were entered and the Scranton lot was ordered sold to be denatured for use as hog feed, under the supervision of the United States marshal, and the Indianapolis lot was ordered destroyed.

**9641. Adulteration of pastry flour. U. S. v. 103 Bags and 875 Bags of Pastry Flour. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17014, 17159. Sample Nos. 31565-H, 31567-H.)

**LIBELS FILED:** August 8 and 23, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about June 27 and July 9, 1945, by the Chehalem Valley Mills, from Newberg, Oreg.



**PRODUCT:** 103 bags and 875 bags, each containing 100 pounds, of pastry flour at Los Angeles, Calif.

**LABEL, IN PART:** "High Grade White Swan Pastry Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, beetles, and larvae; and, Section 402 (a) (4), a portion had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 24 and September 7, 1945. The Chehalem Valley Mills, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for conversion into animal feed, under the supervision of the Federal Security Agency.

**9642. Adulteration of pastry flour. U. S. v. 400 Bags of Cake and Pastry Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17113. Sample Nos. 11926-H, 12260-H.)**

**LIBEL FILED:** August 8, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about June 7, 1945, from Prosser, Wash.

**PRODUCT:** 400 100-pound bags of pastry flour at Malden, Mass., in the possession of the Crown Baking Co., Inc. The product was stored under insanitary conditions after shipment. The premises were rodent-infested, and urine stains were observed on the bags. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 4, 1945. The Crown Baking Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration, by removing all contaminated flour.

**9643. Adulteration of phosphated flour. U. S. v. 282 Bags of Phosphated Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16902. Sample No. 20286-H.)**

**LIBEL FILED:** July 23, 1945, Northern District of Oklahoma.

**ALLEGED SHIPMENT:** On or about May 16, 1945, by the Consolidated Flour Mills, from Winfield, Kans.

**PRODUCT:** 282 25-pound bags of phosphated flour at Tulsa, Okla.

**LABEL, IN PART:** "Prize Taker Fancy Short Patent Phosphated Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** August 2, 1945. The Griffin Goodner Grocery Co., Tulsa, Okla., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as stock feed, under the supervision of the Federal Security Agency.

**9644. Adulteration of phosphated and self-rising flour. U. S. v. 204 Bags of Phosphated Flour and 87 Bags of Self-Rising Flour. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 16982. Sample Nos. 24807-H, 24808-H.)**

**LIBEL FILED:** August 4, 1945, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about March 12 and May 15, 1945, from Wichita, Kans., and Louisville, Ky.

**PRODUCT:** 214 bags of phosphated flour and 87 bags of self-rising flour at Huntsville, Ala., in the possession of the W. L. Halsey Grocery Co., Inc. The products were stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination showed that the flour was contaminated with urine and rodent excreta.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** September 24, 1945. The W. L. Halsey Grocery Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

**9645. Adulteration of phosphated flour and self-rising flour. U. S. v. 760 Bags and 57 Bags of Phosphated Flour and Self-Rising Flour. Default decree of condemnation. Products ordered delivered to a State institution. (F. D. C. No. 16924. Sample No. 24499-H.)**

**LIBEL FILED:** On or about August 18, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about March 7, 1945, by the Ross Milling Co., from Ottawa, Kans.

**PRODUCT:** 760 10-pound bags and 57 25-pound bags of phosphated and self-rising flour at Mobile, Ala.

**LABEL, IN PART:** "Ross Betsy's Best Flour Phosphated [or "Self-Rising"] Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** October 29, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered to be delivered to a State institution, to be used for purposes other than human consumption.

**9646. Adulteration of phosphated flour and plain flour. U. S. v. 65 Bags of Phosphated Flour and 10 Bags of Plain Flour. Default decree of condemnation and destruction. (F. D. C. No. 17093. Sample Nos. 126-H, 127-H.)**

**LIBEL FILED:** August 8, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about March 30 and May 7, 1945, by the Pillsbury Mills, Inc., from Enid, Okla.

**PRODUCT:** 65 25-pound bags of phosphated flour and 10 100-pound bags of plain flour at Tampa, Fla., in the possession of Bonacker Brothers, Inc. The phosphated flour was stored under insanitary conditions after shipment, and rodent excreta and urine stains were observed on the bags. Examination showed that the phosphated flour had been contaminated with urine, and that the plain flour contained weevils and larvae.

**LABEL, IN PART:** "Pillsbury's Best XXXX Bake Proved All Purpose \* \* \* Enriched Phosphated Flour," or "Pillsbury's Sunny Grain Flour \* \* \* Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), the phosphated flour had been stored under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 4, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**9647. Adulteration of plain flour, phosphated flour, and self-rising flour. U. S. v. 1,211 Bags of Flour (and 2 other seizure actions against flour). Consent decrees of condemnation. Products released under bond. (F. D. C. Nos. 16926, 16944, 16972. Sample Nos. 23777-H, 24378-H, 24380-H, 24701-H, 24809-H, 24810-H.)**

**LIBELS FILED:** July 26 and 30 and August 2, 1945, Middle and Northern Districts of Alabama and Eastern District of Texas.

**ALLEGED SHIPMENT:** On or about September 15 and November 16, 1944, and April 14 and 21, May 2, and June 8, 1945, by the Dobry Flour Mills, Inc., from Yukon, Okla.

**PRODUCT:** 668 25-pound bags and 543 10-pound bags of flour at Dothan, Ala.; 141 25-pound bags and 65 50-pound bags of flour at Tyler, Tex.; and 95 50-pound bags and 424 25-pound bags of flour at Athens, Ala.

**LABEL, IN PART:** "Top O' The World Enriched Phosphated [or "Self-Rising"] Flour," "Rose Queen Brand Enriched Flour Bleached," or "Dobry's Best of the West Flour \* \* \* Phosphated."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, and insect fragments.

**DISPOSITION:** July 26, August 29, and September 29, 1945 (decree of July 26 amended October 10, 1945). The Newton Grocery Co., Dothan, Ala., the Howard Dodd Co., Tyler, Tex., and the Athens Produce Co., Athens, Ala., having appeared as claimants for the respective lots and having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**9648. Adulteration of plain flour and self-rising flour. U. S. v. 1,879 Bags of Plain Flour and Self-Rising Flour. Default decree of condemnation. Products ordered delivered to a public institution. (F. D. C. No. 16896. Sample No. 24635-H.)**

**LIBEL FILED:** On or about August 14, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about May 4 and June 12, 1945, by the Fuhrer-Ford Milling Co., from Mount Vernon, Ind.

**PRODUCT:** 1,100 25-pound bags, 772 10-pound bags, and 7 100-pound bags of plain flour and self-rising flour at Mobile, Ala.

**LABEL, IN PART:** "Dictator Highest Patent Flour Phosphated [or "Self-Rising"] Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** October 29, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a public institution, for use as stock feed.

**9649. Adulteration of plain flour and self-rising flour. U. S. v. 1,156 Bags of Flour. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 17011. Sample No. 24845-H.)**

**LIBEL FILED:** August 8, 1945, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about May 18 and June 14, 1945, by the Yukon Mill and Grain Co., Yukon, Okla.

**PRODUCT:** 105 10-pound bags, 1,022 25-pound bags, and 29 50-pound bags of plain flour and self-rising flour at Pensacola, Fla.

**LABEL, IN PART:** "Yukons Best Vitamin and Mineral Enriched Phosphated [or "Self-Rising"] Flour Bleached Highest Patent."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** August 25, 1945. The Pace-Holland Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond to be denatured for industrial use, under the supervision of the Food and Drug Administration.

**9650. Adulteration of plain flour and self-rising flour. U. S. v. 562 Bags of Plain Flour and Self-Rising Flour. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 17047. Sample No. 24847-H.)**

**LIBEL FILED:** On or about August 14, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about June 5, 1945, by the Valley Mills, from Jackson, Miss.

**PRODUCT:** 360 10-pound bags and 202 25-pound bags of plain flour and self-rising flour at Robertsdale, Ala.

**LABEL, IN PART:** "Bleached Big 5 Enriched Self-Rising Flour [or "Calcium Phosphate Added"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** October 4, 1945. The Pace-Holland Co., Inc., Robertsdale, Ala., claimant, having admitted the material allegations of the libel, judgment was



entered and the products were ordered released under bond to be denatured and converted into a product suitable for stock feed or industrial use, under the supervision of the Food and Drug Administration.

**9651. Adulteration of self-rising flour and phosphated flour. U. S. v. 195 Bags of Self-Rising Flour and 90 Bags of Phosphated Flour. Default decree of condemnation. Products ordered delivered to a public institution.** (F. D. C. No. 16883. Sample Nos. 24495-H, 24632-H.)

**LIBEL FILED:** On or about August 13, 1945, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about May 15, 1945, from Memphis, Tenn., by the Pillsbury Flour Mills Co.

**PRODUCT:** 195 25-pound bags of self-rising flour and 90 25-pound bags of phosphated flour at Mobile, Ala., in the possession of the Campbell Grocery Co. The phosphated flour was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Both lots of the flour contained weevils and larvae.

**LABEL, IN PART:** "Pillsbury's Best."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), both lots of the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), the phosphated flour had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 29, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a public institution, for use as stock feed.

**9652. Adulteration of self-rising flour and plain flour. U. S. v. 1,452 Bags of Self-Rising Flour and 97 Bags and 57 Bags of Plain Flour. Decree of condemnation. Products ordered delivered to a Federal institution.** (F. D. C. No. 17150. Sample No. 24846-H.)

**LIBEL FILED:** August 24, 1945, Northern District of Florida.

**ALLEGED SHIPMENT:** Between the approximate dates of August 16, 1944, and March 29, 1945, by the Sauers Milling Co., from Evansville, Ill.

**PRODUCT:** 1,452 5-, 10-, 25-, or 50-pound bags of self-rising flour and 97 5-pound bags and 57 10-pound bags of plain flour at Pensacola, Fla.

**LABEL, IN PART:** "Bleached [or "Self-Rising Bleached"] Sauers Invincible Flour," or "Bleached Sauers Infallible Special Patent Flour Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** September 26, 1945. The Sauers Milling Co. having filed a disclaimer, judgment of condemnation was entered and the products were ordered delivered to a Federal institution, for use as hog feed.

**9653. Adulteration of plain flour and rye flour. U. S. v. 155 Bags of Rye Flour and 210 Bags of Plain Flour. Default decree of forfeiture and destruction.** (F. D. C. No. 17063. Sample Nos. 14000-H, 14541-H, 14542-H.)

**LIBEL FILED:** September 28, 1945, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about April 21, May 18, and August 11, 1945, by the Valier and Spies Milling Co., from St. Louis, Mo.

**PRODUCT:** 155 100-pound bags of dark rye flour and 210 100-pound bags of plain flour at Evansville, Ind.

**LABEL, IN PART:** "Valier's Pure Dark Rye," or "King Pin Bleached Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of beetles and larvae.

**DISPOSITION:** November 5, 1945. No claimant having appeared, judgment of forfeiture was entered and the products were ordered destroyed.

**9654. Adulteration of rye flour. U. S. v. 140 Bags of Rye Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16990. Sample No. 13745-H.)

**LIBEL FILED:** August 11, 1945, Northern District of Ohio.



**ALLEGED SHIPMENT:** On or about March 27, 1945, from Janesville, Wis.

**PRODUCT:** 140 100-pound bags of rye flour at Cleveland, Ohio, in the possession of Basic Food Materials, Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta pellets were observed on them. Examination showed that the product contained rodent excreta, rodent hair fragments, beetles, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 11, 1945. Basic Food Materials, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into chicken feed, under the supervision of the Federal Security Agency.

**9655. Adulteration of rye flour. U. S. v. 6 Bags of Rye Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17081. Sample No. 4483-H.)

**LIBEL FILED:** On or about August 9, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 10, 1944, and April 11, 1945, by Washburn Crosby, from Buffalo, N. Y.

**PRODUCT:** 6 100-pound bags of rye flour at Wildwood, N. J.

**LABEL, IN PART:** "Washburn Crosby Gold Medal Flour \* \* \* Pure 000 Rye Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** October 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9656. Adulteration of waffle flour. U. S. v. 17 Bales of Waffle Flour. Default decree of forfeiture and destruction.** (F. D. C. No. 17025. Sample No. 21647-H.)

**LIBEL FILED:** On or about August 18, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about July 11, 1945, by the Anchor Mills, Inc., from Chicago, Ill.

**PRODUCT:** 17 bales, each containing 5 10-pound bags, of waffle flour at Kansas City, Mo.

**LABEL, IN PART:** "Anchor Mills Wonder Waffle Mix."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, insects, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9657. Misbranding of flapjack flour. U. S. v. 50 Cases of Flapjack Flour. Consent decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 15466. Sample No. 26421-H.)

**LIBEL FILED:** March 5, 1945, District of Nebraska.

**ALLEGED SHIPMENT:** On or about February 8, 1945, by Toomey's Mills, from Newcastle, Wyo.

**PRODUCT:** 50 cases, each containing 12 packages, of flapjack flour at Lincoln, Nebr. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Toomey's Self-Rising Famous Flapjack Flour 12 Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 20, 1945. Toomey's Mills, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.



**9658. Adulteration and misbranding of enriched phosphated flour and enriched plain flour. U. S. v. Dixie Portland Flour Co. (Higginsville Flour Mill). Plea of guilty. Fine, \$500. (F. D. C. No. 15506. Sample Nos. 67335-F, 68320-F, 68505-F, 72479-F, 80123-F.)**

**INFORMATION FILED:** May 8, 1945, Western District of Missouri, against the Dixie Portland Flour Co., a corporation, trading as the Higginsville Flour Mill, Higginsville, Mo.

**ALLEGED SHIPMENT:** Between the approximate dates of April 21 and September 2, 1944, from the State of Missouri into the States of Ohio, Illinois, and Tennessee.

**LABEL, IN PART:** "Kroger's Country Club Quality Brand Enriched Flour Bleached Distributed By the Kroger Grocery & Baking Co. \* \* \* Cincinnati, O."; "Packed For C. D. Kenny Co. Distributors Baltimore, Md., Kenny's Enriched Bleached Flour"; "Enriched Flour Bleached Vitamins and Iron \* \* \* Grand Prize Best Quality \* \* \* Packed For Empire Distributing Company St. Louis, Mo."; or "Enriched Phosphated Flour \* \* \* Majestic Flour Mill, Aurora, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub>, riboflavin, iron, and niacin had been in whole or in part omitted or abstracted from the article, since it was represented as containing, in each 8 ounces, 100 percent of the minimum daily requirement of vitamin B<sub>1</sub>, 30 percent of the minimum daily requirement of riboflavin, 65 percent of the minimum daily requirement of iron, and 8 milligrams of niacin, whereas the 5 shipments of the article contained vitamin B<sub>1</sub> in amounts varying from 48 to 86 percent of the minimum daily requirement. Two of the shipments contained not more than 20 and 22.5 percent, respectively, of the minimum daily requirement of riboflavin; 48 and 50 percent, respectively, of the minimum daily requirement of iron; and 6.1 and 6.5 milligrams, respectively, of niacin.

Misbranding, Section 403 (a), the label statements, "Enriched 8 ounces of enriched flour contain not less than the following proportions of the minimum daily requirements of: Vitamin B<sub>1</sub> 100%; Riboflavin 30%; Iron 65%; and 8 mg. of Niacin," were false and misleading since all lots would supply less than 100 percent of the minimum daily requirement of vitamin B<sub>1</sub>, and 2 of the 5 lots would supply less than the declared proportions of the minimum daily requirements of riboflavin and iron, and less than the declared amount of niacin.

Further misbranding, Section 403 (g) (1), the 5 shipments of the product failed to conform to the definition and standard of identity prescribed for enriched flour, since the flour contained vitamin B<sub>1</sub> in amounts varying from .96 milligram to 1.57 milligrams; and 2 of the shipments contained, respectively, not more than 0.8 and 0.9 milligram of riboflavin, not more than 12.1 and 13.0 milligrams of niacin, and not more than 9.6 and 10.0 milligrams of iron, whereas the standard requires not less than 2.0 milligrams of thiamine (vitamin B<sub>1</sub>), not less than 1.2 milligrams of riboflavin, not less than 16.0 milligrams of niacin, and not less than 13 milligrams of iron per pound.

**DISPOSITION:** December 17, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500, plus costs.

#### MACARONI AND NOODLE PRODUCTS

**9659. Adulteration and misbranding of macaroni and noodle products. U. S. v. 29 Cases of Macaroni and 102 Cases of Noodles (and 1 other seizure action against macaroni and noodle products). Default decrees of condemnation. Portion of products ordered delivered to a charitable institution; remainder ordered destroyed. (F. D. C. Nos. 16197, 16487. Sample Nos. 9464-H, 9466-H, 10489-H, 10490-H.)**

**LIBELS FILED:** May 17 and June 20, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of April 6 and May 25, 1945, by the Gioia Macaroni Co., Inc., from Rochester, N. Y.

**PRODUCT:** 29 cases, each containing 4 5-pound packages, of elbow macaroni and 102 cases, each containing 12 12-ounce packages, of noodles at Erie, Pa.; and 21 cases, each containing 20 1-pound packages, of macaroni products at Pittsburgh, Pa. Examination showed that the Erie lot contained rodent hair fragments; that the Pittsburgh lot was deceptively packaged, since the products occupied about 75 percent of the volume of the packages; and that a portion of the latter lot was short of the declared weight.



**LABEL, IN PART:** "Gioia Brand Macaroni Stortini [or "Elbows"]," "Gioia Brand Pure Egg Noodles Wide [or "Medium"]," or "Gioia Brand Magliette No. 22 [or "Acine Di Pepe No. 34"] Highest Quality Macaroni Products."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (Erie lot) the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (d), (Pittsburgh lot) the containers of the articles were so filled as to be misleading since the products occupied, on an average, only about 75 percent of the volume of the packages; and, Section 403 (e) (2), a portion failed to bear labels containing an accurate statement of the quantity of the contents.

**DISPOSITION:** June 26 and September 21, 1945. No claimant having appeared, judgments of condemnation were entered. It was ordered that the adulterated products be destroyed, and that the misbranded products be delivered to a charitable institution.

**9660. Adulteration and misbranding of macaroni products. U. S. v. V. Viviano & Bros. Macaroni Manufacturing Co., Inc. Plea of nolo contendere. Fine, \$700.** (F. D. C. No. 16532. Sample Nos. 62327-F to 62330-F, incl., 12926-H, 20025-H.)

**INFORMATION FILED:** August 14, 1945, Eastern District of Missouri, against V. Viviano & Bros. Macaroni Mfg. Co., Inc., a corporation, St. Louis, Mo.

**ALLEGED SHIPMENT:** On or about November 29, 1944, and January 5, 1945, from the State of Missouri into the States of Alabama, Indiana, and Nebraska.

**PRODUCT:** 5 shipments of macaroni products prepared under insanitary conditions; and 1 shipment of pastina labeled as containing 500 International Units of vitamin B<sub>1</sub> per package, but containing not more than 77 International Units of vitamin B<sub>1</sub> per package.

**LABEL, IN PART:** (Portion) "Supreme Quality Viviano [or "Macaroni," "Elbow Macaroni," "Sea Shells," "Spaghetti," or "Gragnano"]"; (Remainder) "Contains Vitamin B<sub>1</sub> 500 International Units Per Pkg. New Baby Pastina."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), portions of the articles had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth; and, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the pastina.

Misbranding, Section 403 (a), the label statement on the packages of pastina, "Contains Vitamin B<sub>1</sub> 500 International Units Per Pkg.," was false and misleading.

**DISPOSITION:** October 30, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100 on each of the 7 counts.

**9661. Adulteration of macaroni. U. S. v. 23 Cases and 14 Cases of Macaroni. Default decree of condemnation. Portion ordered delivered to a charitable institution, for use as animal feed; remainder ordered destroyed.** (F. D. C. Nos. 17139, 17140. Sample Nos. 28758-H to 28762-H, incl.)

**LIBELS FILED:** August 22, 1945, District of Ohio and District of Oregon.

**ALLEGED SHIPMENT:** On or about July 19, 1945, by the Mission Macaroni Co., Seattle, Wash.

**PRODUCT:** 23 cases of macaroni at Lewiston, Idaho, and 14 cases of the same product at Hermiston, Oreg.

**LABEL, IN PART:** "Mission Brand [or "Best Bet"] \* \* \* Macaroni."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms, insect fragments, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 1 and 4, 1945. No claimant having appeared, judgments of condemnation were entered and the Lewiston lot was ordered delivered to a charitable institution, for use as animal feed, and the Hermiston lot was ordered destroyed.



**9662. Adulteration and misbranding of noodles. U. S. v. 112,000 Pounds of Noodles (and 5 other seizure actions against noodles). Decrees of condemnation. Portions of product ordered delivered to a public institution or destroyed; remainder ordered released under bond. (F. D. C. Nos. 17077, 17094 to 17097, incl., 17348. Sample Nos. 7117-H to 7122-H, incl., 7127-H to 7137-H, incl., 7139-H, 7140-H, 7143-H.)**

**LIBELS FILED:** Between July 31 and September 10, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** Between the approximate dates of June 1 and July 5, 1945, by the Atlantic Macaroni Co., Inc., from Long Island City, N. Y.

**PRODUCT:** Noodles. 112,000 pounds and 225 75-pound bags at Hoboken, N. J.; 28 boxes, each containing 12 1-pound packages, and 21 boxes, each containing 24 ½-pound packages, at Newark, N. J.; 15 boxes, each containing 12 ¾-pound packages, at Asbury Park, N. J.; 17 boxes, each containing 12 1-pound packages, at Long Branch, N. J.; and 17 boxes, each containing 12 1-pound packages, at Sea Bright, N. J.

**LABEL, IN PART:** (Portions) "Caruso Brand Pure Egg Products No artificial Coloring," or "Pure Egg Neckties No Artificial Coloring." The Hoboken lots were unlabeled, but they were purchased under contracts for a product complying with the definition and standard of identity for noodles.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), (all lots, with the exception of 225 75-pound bags) a valuable constituent, egg, had been in whole or in part omitted from the article; and, Section 402 (b) (4), (all lots) artificial yellow color had been added to the article or mixed or packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for noodles since all but one of the lots contained less than 5.5 percent, by weight, of the solids of egg or egg yolks, the minimum provided for by the definition and standard, and all of the lots contained artificial yellow coloring, an ingredient for which no provision exists in the standard. Further misbranding, Section 403 (a), (portion) the statements, "Pure Egg Neckties No Artificial Coloring," and "Pure Egg Products No Artificial Coloring," borne on the labels, were false and misleading.

**DISPOSITION:** On September 6 and 19, 1945, the Atlantic Macaroni Co., Inc., claimant for the Hoboken lots, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be repacked and labeled, under the supervision of the Food and Drug Administration, and delivered to UNRRA for the relief of foreign peoples. On October 5 and December 17, 1945, no claimant having appeared for the other lots, judgments of condemnation were entered. The Newark lot was ordered destroyed, and the Asbury Park, Long Branch, and Sea Bright lots were ordered delivered to public institutions.

**9663. Misbranding of egg noodles. U. S. v. 36 Cases of Egg Noodles. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 15831. Sample Nos. 22322-H, 22323-H.)**

**LIBEL FILED:** March 29, 1945, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about February 10, 1945, by Ravarino and Freschi, Inc., from St. Louis, Mo.

**PRODUCT:** 36 cases, each containing 24 packages, of egg noodles at Little Rock, Ark. The product was short-weight.

**LABEL, IN PART:** "Net Wt. ½ Pound Kroger's Country Club Quality Brand Pure Egg Noodles."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** May 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9664. Adulteration of noodles and spaghetti. U. S. v. 110 Packages of Noodles and 100 Packages of Spaghetti. Default decree of condemnation and destruction. (F. D. C. No. 16889. Sample Nos. 24802-H, 24803-H.)**

**LIBEL FILED:** July 20, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about May 24, 1945, by The Loeb Dietetic Food Co., Inc., from New York, N. Y.



**PRODUCT:** 110 3-ounce packages of noodles and 100 3-ounce packages of spaghetti at New Orleans, La. Examination showed that the products contained rodent hair fragments and insect fragments.

**LABEL, IN PART:** "Loeb's Dietetic Gluten Noodles [or "Spaghetti"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** September 10, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

#### MISCELLANEOUS CEREAL PRODUCTS

**9665. Adulteration of corn grits. U. S. v. 485 Bags of Corn Grits. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 17067. Sample No. 13466-H.)

**LIBEL FILED:** August 18, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 27, 1945, by the Decatur Milling Co., Inc., from Decatur, Ill.

**PRODUCT:** 485 100-pound bags of corn grits at Toledo, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for use as animal feed.

**9666. Adulteration of white corn grits. U. S. v. 371 Bags of White Corn Grits. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16446. Sample No. 31536-H.)

**LIBEL FILED:** June 14, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 14, 1945, from Kankakee, Ill.

**PRODUCT:** 371 100-pound bags of white corn grits at Los Angeles, Calif., in the possession of the Rainier Brewing Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained rodent pellets and rodent hair fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 29, 1945. The Rainier Brewing Co., claimant, having admitted that the product was adulterated, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9667. Adulteration of brewers rice grits. U. S. v. 187 Bags of Brewer's Rice Grits. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17161. Sample No. 19404-H.)

**LIBEL FILED:** August 24, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about October 17, 18, and 24, 1944, by the Commerce Rice Co., from Crowley, La.

**PRODUCT:** 187 200-pound bags of brewers rice grits at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of moths, weevils, and larvae.

**DISPOSITION:** November 19, 1945. The Cambridge Feed and Mill Co., Cambridge, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.



**9668. Adulteration of doughnut mix. U. S. v. 20 Bags and 6 Bags of Doughnut Mix. Default decrees of condemnation. Portion of product ordered sold; remainder destroyed.** (F. D. C. Nos. 16783, 17194. Sample Nos. 24476-H, 24545-H.)

**LIBELS FILED:** On or about July 10 and September 5, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** Between the approximate dates of May 18 and July 31, 1945, by the Doughnut Corporation of America, from Houston, Tex.

**PRODUCT:** 26 150-pound bags of doughnut mix at New Orleans, La. Examination showed that the product contained beetles, larvae, weevils, and insect fragments.

**LABEL, IN PART:** "Do Nut Mix."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** September 29, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered sold to be denatured and converted into stock feed, under the supervision of the Food and Drug Administration. On October 23, 1945, the decree which was entered against the 20-bag lot of the product was amended to provide for the destruction of that lot since its state of decomposition was such as to contaminate other flour in the warehouse.

**9669. Adulteration of rolled oats. U. S. v. 140 Bags of Rolled Oats. Default decree of condemnation and destruction.** (F. D. C. No. 17076. Sample No. 657-H.)

**LIBEL FILED:** August 6, 1945, Eastern District of North Carolina.

**ALLEGED SHIPMENT:** On or about January 25, 1945, by the Northern Illinois Cereal Co., from Lockport, Ill.

**PRODUCT:** 140 100-pound bags of rolled oats at Fayetteville, N. C.

**LABEL, IN PART:** "Gold Medal Choice Rolled Oats."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hair fragments, weevils, and larvae.

**DISPOSITION:** November 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9670. Adulteration of rolled oats. U. S. v. 46 Cartons of Rolled Oats. Default decree of condemnation. Product ordered delivered to a charitable institution, for use as animal feed.** (F. D. C. No. 17166. Sample Nos. 23994-H, 23995-H.)

**LIBEL FILED:** August 22, 1945, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about October 26, 1944, by the Northern Oats Co., Minneapolis, Minn.

**PRODUCT:** 46 cartons, each containing 24 14-ounce packages, of rolled oats at Birmingham, Ala.

**LABEL, IN PART:** "Highland Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, for use as animal feed.

**9671. Adulteration of popcorn. U. S. v. 519 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 14509, 14527, 14528, 14552. Sample Nos. 81285-F to 81287-F, incl., 81290-F, 81291-F.)

**LIBEL FILED:** November 27, 1944, Western District of Oklahoma; amended on or about December 6, 1944.

**ALLEGED SHIPMENT:** On or about October 31 and November 14 and 16, 1944, by Manley, Inc., from Dallas, Tex., Denver, Colo., and Lake View, Iowa.

**PRODUCT:** 519 100-pound bags of popcorn at Oklahoma City, Okla.

**LABEL, IN PART:** (Portion) "Manley's Best Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** December 22, 1944. Manley, Inc., Kansas City, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for cleaning under the supervision of the Food and Drug Administration.

**9672. Adulteration of popcorn. U. S. v. 240 Bags of Popcorn. Decree of condemnation. Product ordered sold or destroyed.** (F. D. C. No. 17056. Sample No. 14404-H.)

**LIBEL FILED:** September 21, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 26, 1945, by the J. C. Robinson Seed Co., from Waterloo, Nebr.

**PRODUCT:** 240 100-pound bags of popcorn at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

**DISPOSITION:** November 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered denatured and sold for use as stock feed, or destroyed, under the supervision of the Food and Drug Administration.

**9673. Adulteration of popcorn. U. S. v. 217 Cases of Popcorn. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17008. Sample Nos. 14787-H to 14789-H, incl.)

**LIBEL FILED:** September 13, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** The lot consisted of 3 return shipments, shipped as follows: 100 cases on or about April 18, 1945, by the Germann Brothers Motor Transportation, from Charleston, W. Va.; 93 cases on or about May 28, 1945, by Lee and Cady, from Kalamazoo, Mich.; and 24 cases on or about June 26, 1945, by the Wilson Mercantile Co., from Rhineland, Wis.

**PRODUCT:** 217 cases, each containing 36 8-ounce bags, of popcorn (grain) at Chicago, Ill.

**LABEL, IN PART:** "Popcorn Selected Finest Quality."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (100-case and 93-case lots) the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and (all lots) a decomposed substance by reason of the presence of moldy popcorn.

**DISPOSITION:** September 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. By amended decree, September 25, 1945, the product was ordered delivered to a public institution, for use as stock feed.

**9674. Adulteration of popcorn. U. S. v. 124 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16492. Sample No. 32345-H.)

**LIBEL FILED:** June 23, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 19, 1945, from Lawrence, Kans.

**PRODUCT:** 124 100-pound bags of popcorn at Los Angeles, Calif., in the possession of the Metropolitan Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 29, 1945. The Wilkes Popcorn and Sales Co., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.



**9675. Adulteration of popcorn. U. S. v. 30 Bags of Popcorn (and 4 other seizure actions against popcorn). Default decrees of condemnation. Product ordered sold.** (F. D. C. Nos. 17001 to 17003, incl., 17504, 17505, 17668, 17669, 17738. Sample Nos. 21896-H, 21904-H, 21911-H, 23047-H to 23049-H, incl., 23052-H, 23053-H.)

**LIBELS FILED:** September 28 and October 4 and 22, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of October 18, 1944, and May 29, 1945, by G. C. Atkins, from Shawneetown, Ill., and Durant, Okla.

**PRODUCT:** 97 bags, each containing 100 pounds, of popcorn at Memphis, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of moths, weevils, and larvae.

**DISPOSITION:** December 3, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered sold, to be denatured under the supervision of the Federal Security Agency, and disposed of for purposes other than human consumption.

**9676. Adulteration of rice. U. S. v. 359 Bags of Rice. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17146. Sample Nos. 26934-H to 26936-H, incl.)

**LIBEL FILED:** On or about August 23, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about May 2, 1942, by the Liberty Rice Mill, Inc., from Kaplan, La.

**PRODUCT:** 359 100-pound bags of rice at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** September 7, 1945. The Berger Sales Co., Denver, Colo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by washing, under the supervision of the Food and Drug Administration.

**9677. Adulteration of rice. U. S. v. 37 Bags of Rice. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17138. Sample No. 19402-H.)

**LIBEL FILED:** August 18, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 8, 1945, from Chicago, Ill.

**PRODUCT:** 37 100-pound bags of rice at Minneapolis, Minn., in the possession of the Kedney Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, rodent hairs, moths, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 14, 1945. The Liberty Cafe, Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9678. Adulteration of Wheatmix and wheat germ. U. S. v. 73 Cases of Wheatmix and 21 Cases of Wheat Germ. Default decree of condemnation. Products ordered released under bond.** (F. D. C. No. 16755. Sample Nos. 20087-H, 20088-H.)

**LIBEL FILED:** June 25, 1945, District of Nebraska.

**ALLEGED SHIPMENT:** On or about May 15, 1945, by the Dwarfies Corporation, from Council Bluffs, Iowa.

**PRODUCT:** 73 cases, each containing 18 packages, of Dwarfies Wheatmix and 21 cases, each containing 12 jars, of Dwarfies Toasted Wheat Germ at Omaha, Nebr.

**LABEL, IN PART:** "Dwarfies` Wheatmix \* \* \* The Added Wheat Germ," or "Dwarfies Toasted Wheat Germ."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent excreta fragments, larvae, and larva fragments.

**DISPOSITION:** August 24, 1945. The Dwarfies Corporation having appeared as claimant, judgment of condemnation was entered and the products were ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

## CHOCOLATE AND RELATED PRODUCTS

### CANDY

**9679. Adulteration of candy. U. S. v. Close and Co. Plea of nolo contendere. Fine, \$1,000 and costs. (F. D. C. No. 16515. Sample Nos. 18401-H, 18402-H.)**

**INFORMATION FILED:** October 4, 1945, Northern District of Illinois, against Close and Co., a partnership, Chicago, Ill.

**ALLEGED SHIPMENT:** On or about February 21, 1945, from the State of Illinois into the State of South Dakota.

**LABEL, IN PART:** "Drop Kicks Assorted Flavors," or "Root Beer Barrels Candy With Flavor."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and hairs resembling rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 27, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$500 on each count, a total of \$1,000 plus costs.

**9680. Adulteration of candy. U. S. v. Mello-Sweets, Inc. Plea of guilty. Fine, \$200. (F. D. C. No. 16564. Sample Nos. 74691-F, 83365-F, 25722-H, 27310-H, 27520-H, 28229-H, 28230-H, 28317-H.)**

**INFORMATION FILED:** September 27, 1945, District of Oregon, against Mello-Sweets, Inc., a corporation, Portland, Oreg.

**ALLEGED SHIPMENT:** Between the approximate dates of November 20, 1944, and January 29, 1945, from the State of Oregon into the States of California, Wisconsin, and Washington.

**LABEL, IN PART:** "Nut Log," or "Valentine Candies."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, hair fragments resembling rodent hair, a rodent pellet, a larva, an insect fragment, and a cat hair; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 27, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$200.

**9681. Adulteration of candy. U. S. v. 7,695 Cartons of Candy Bars. Default decree of condemnation and destruction. (F. D. C. No. 16775. Sample No. 29691-H.)**

**LIBEL FILED:** July 3, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 22, 1945, by the Vendors Consolidating Co., Inc., from Jersey City, N. J.

**PRODUCT:** 7,695 cartons each containing 24 candy bars at Oakland, Calif. Examination of this product showed that it was fermenting.

**LABEL, IN PART:** "Chocolate Covered Peanut Bar \* \* \* Made by Leading Candy Co. New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.



DISPOSITION: August 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9682. Adulteration of candy. U. S. v. 135 Cases and 250 Cases of Candy (and 2 other seizure actions against candy). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17151, 17245, 17246. Sample Nos. 20794-H, 21353-H, 21746-H, 21747-H.)

**LIBELS FILED:** On or about August 27 and September 11, 1945, District of Kansas and Western District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of July 13 and August 1, 1945, by the Eason Brokerage Co., from Oklahoma City, Okla.

**PRODUCT:** 32 cartons, each containing 22 pounds, and 300 cases, each containing 40 pounds, of candy at Wichita, Kans.; and 135 cases, each containing 40 pounds, and 250 cases, each containing 21 pounds, of the same product at Kansas City, Mo.

**LABEL, IN PART:** (Portion) "Chocolate Pecan Fudge," or "Chocolate Raisin Fudge."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, insects, insect fragments, and beetles.

DISPOSITION: October 12 and 23, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9683. Adulteration of candy. U. S. v. 362 Boxes of Candy. Default decree of destruction.** (F. D. C. No. 16945. Sample Nos. 20765-H, 20766-H.)

**LIBEL FILED:** On or about August 6, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about June 27, 1945, by the Findlay Candy Co., from Oklahoma City, Okla.

**PRODUCT:** 362 boxes of candy at Kansas City, Mo.

**LABEL, IN PART:** "Williams Candy Made By Walter Williams Candy Company Oklahoma City, Oklahoma Almond (Flavored) Bitz [or "Magnolia Jellies"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 11, 1945. No claimant having appeared, judgment was entered ordering the product destroyed.

**9684. Adulteration of candy. U. S. v. 88 Cases of Candy (and 2 other seizure actions against candy). Default decrees of condemnation. One lot ordered delivered to a Federal institution, for use as animal feed; remaining lots ordered destroyed.** (F. D. C. Nos. 16946, 16980, 17016. Sample Nos. 10547-H, 12818-H, 12819-H, 14698-H.)

**LIBELS FILED:** Between the approximate dates of July 31 and August 6, 1945, Western District of Pennsylvania, Southern District of Indiana, and Eastern District of Michigan.

**ALLEGED SHIPMENT:** Between the approximate dates of July 2 and 18, 1945, by the Mackenzie Candy Co., Cleveland, Ohio.

**PRODUCT:** Candy. 88 cases at Detroit, Mich.; 54 cartons at Indianapolis, Ind.; and 28 boxes at Aliquippa, Pa. Examination showed that the Detroit and Aliquippa lots contained rodent hair fragments, and that the Indianapolis lot contained rodent hairs and insect fragments.

**LABEL, IN PART:** "Mackenzie's Old Hickory Fudge," or "Mackenzie's Nut-Mac Chocolate Covered Nut Fudge."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 21 and 28, 1945. No claimant having appeared, judgments of condemnation were entered and the Detroit lot was ordered delivered to a Federal institution, for use as animal feed, and the remaining lots were ordered destroyed.



**9685. Adulteration of candy. U. S. v. 36 Cartons and 48 Cartons and 3 Cases of Candy. Default decree of condemnation. Product ordered delivered to a charitable institution, for use other than human consumption. (F. D. C. No. 16947. Sample Nos. 23858-H to 23860-H, incl.)**

**LIBEL FILED:** On or about August 1, 1945, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about June 19, 1945, by the Brock Candy Co., Chattanooga, Tenn.

**PRODUCT:** 84 cartons and 3 cases of candy at Dallas, Tex.

**LABEL, IN PART:** "Century Crisp Peanut Butter Filled Candy," "Crystal Jelly Drops," or "Assorted Jellies."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hairs, hair fragments resembling rodent hairs, rodent excreta, wood fibers, and miscellaneous dirt; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On September 14, 1945, an amended decree was entered ordering the product delivered to a charitable institution, to be used for purposes other than human consumption.

**9686. Adulteration of candy. U. S. v. 274 Cases of Candy. Default decree of condemnation. Product ordered sold. (F. D. C. No. 16981. Sample No. 22982-H.)**

**LIBEL FILED:** August 4, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about May 22 and 28, 1945, by Re LeCandy, Inc., from New York, N. Y.

**PRODUCT:** 274 cases of candy at Memphis, Tenn.

**LABEL, IN PART:** "Product of Cuba 40 Libras Nettas Caramelos Finos."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, insect fragments, and nondescript dirt.

**DISPOSITION:** September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned that it be denatured under the supervision of the Federal Security Agency and used for purposes other than human consumption.

**9687. Adulteration and misbranding of candy bars. U. S. v. 160 Boxes of Koko-Nut Candy Bars, 168 Boxes of Strawberry Candy Bars, and 160 Boxes of Pineapple Candy Bars. Consent decree of condemnation. Products ordered released under bond; subsequently destroyed. (F. D. C. No. 16686. Sample Nos. 273-H to 275-H, incl.)**

**LIBEL FILED:** July 6, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 13, 1945, by the Holshouser Candy Co., from Charlotte, N. C.

**PRODUCT:** 488 boxes each containing 30 1½-ounce candy bars at Canton, Ohio. These products were artificially colored candies containing no coconut, strawberry, or pineapple, the purported characterizing ingredients. The fraction "1½" in the statement of the quantity of the contents was practically illegible.

**LABEL, IN PART:** "Holshouser's Koko-Nut [or "Strawberry," or "Pineapple"] Candy Bar [design of coconut tree, strawberries, and pineapple, respectively]  
\* \* \* Ingredients \* \* \* Maize"; (Pineapple bar) "Crushed Fruits."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), coconut, strawberry, and pineapple had been in whole or in part omitted from the articles; and, Section 402 (b) (4), corn flakes had been added to the "Koko-Nut" bar and mixed and packed with it so as to make it appear better or of greater value than it was, since the corn flakes had the appearance of coconut.

Misbranding, Section 403 (a), the names, "Koko-Nut" and the design of a coconut tree, "Strawberry" and the design of strawberries, and "Pineapple" and the design of a pineapple, were false and misleading; Section 403 (f), the statement of the quantity of the contents, which the law requires to appear



on the label, was not prominently placed thereon with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use; and, Section 403 (i) (2), the labels failed to bear the common or usual name of each ingredient, since the name "Maize" is not the common or usual name for the ingredient, corn flakes, and (pineapple bar only) "Crushed Fruits" is not the common or usual name for the small amount of raisins and orange peel present in the candy bar.

**DISPOSITION:** August 18, 1945. The Holshouser Candy Co., claimant, having admitted the facts alleged in the libel, judgment of condemnation was entered and the products were released under bond. It was ordered that the "Koko-Nut" bar be reworked so that it would not have the appearance of a coconut product, and that the remainder of the products be relabeled under the supervision of the Food and Drug Administration. The decree provided further that should it be found impossible to bring the products into compliance with the law, they were to be destroyed. The entire lot of the candy was subsequently destroyed.

**9688. Misbranding of candy. U. S. v. 2,796 Boxes of Candy. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 16452. Sample No. 33643-H.)

**LIBEL FILED:** June 21, 1945, Western District of Oklahoma.

**ALLEGED SHIPMENT:** Between the approximate dates of November 21, 1944, and January 18, 1945, by Milo O. Frank, from Los Angeles, Calif.

**PRODUCT:** 2,796 5-ounce boxes of candy at Oklahoma City, Okla. Examination showed that the boxes contained irregular pieces of candy, which resulted in an excessive amount of unfilled space in the box.

**LABEL, IN PART:** "Spanish Nut Toffee \* \* \* California Fruit Chimes Co. \* \* \* San Gabriel, Calif."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container was so filled as to be misleading since there was an excessive amount of unfilled space in the box, and thus the box appeared to hold more candy than was actually present.

**DISPOSITION:** August 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9689. Misbranding of gift packages. U. S. v. 64 Gift Packages (and 2 other seizure actions against gift packages). Default decrees of condemnation. Portion of product ordered destroyed; remainder ordered delivered to charitable institutions.** (F. D. C. Nos. 17092, 17502, 17993. Sample Nos. 4257-H, 24751-H, 26195-H.)

**LIBELS FILED:** August 6, September 27, and October 25, 1945, Eastern District of Pennsylvania, Eastern District of Louisiana, and Northern District of Texas.

**ALLEGED SHIPMENT:** On or about July 18 and 20, 1945, by the Carleton Hall Co., from Providence, R. I.

**PRODUCT:** Gift packages. 64 at Philadelphia, Pa., 44 at New Orleans, La., and 10 at Lubbock, Tex. The gift packages consisted of wooden boxes containing candy and cookies in paper cups and a cellophane-wrapped piece of fruit cake. The boxes contained an excessive amount of paper and appeared to hold more candy and cookies than were actually present. The cookies in all the lots and the candy and cake in the New Orleans and Lubbock lots were short-weight.

**LABEL, IN PART:** (Outside label, portion of boxes) "Carleton Hall Company 'Pot Luck' Gift Package"; (Inside label, all boxes) "Fruit Cake—Candy—Cookies \* \* \* Weights: Candy 24 Oz.—Cookies 18 Oz.—Fruit Cake 4 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container was so filled as to be misleading since it appeared to hold more candy and cookies than were actually present; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** September 18, November 13, and December 17, 1945. No claimant having appeared, judgments of condemnation were entered and the Philadelphia and Lubbock lots were ordered delivered to charitable institutions, and the New Orleans lot was ordered destroyed.



**9690. Adulteration of licorice. U. S. v. 13 Boxes of Licorice. Default decree of condemnation and destruction.** (F. D. C. No. 15621. Sample No. 17110-H.)

**LIBEL FILED:** March 19, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 2, 1943, by Dodwell and Co., Ltd., from New York, N. Y.

**PRODUCT:** 13 52-pound boxes of licorice at Chicago, Ill.

**LABEL, IN PART:** "Licorek Oriental Licorice Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article contained mold, mites, insect fragments, and fragments resembling rodent hairs.

**DISPOSITION:** June 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### CHOCOLATE AND COCOA PRODUCTS

**9691. Adulteration of chocolate. U. S. v. 3 Bags of Chocolate. Default decree of condemnation and destruction.** (F. D. C. No. 16994. Sample No. 13892-H.)

**LIBEL FILED:** August 11, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 31, 1944, by the Brewster Ideal Chocolate Co., from Newark, N. J.

**PRODUCT:** 3 bags, each containing 20 10-pound slabs, of chocolate at Cleveland, Ohio.

**LABEL, IN PART:** "Regal Vanilla Brazil Cacao of Bahia Product of Brazil."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** September 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9692. Adulteration of sweet chocolate. U. S. v. 60 Cases of Sweet Chocolate (and 3 other seizure actions against sweet chocolate). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed.** (F. D. C. Nos. 15790, 16080, 16405, 16869. Sample Nos. 5820-H, 13167-H, 20076-H, 21628-H.)

**LIBEL FILED:** March 31, April 30, June 5, and July 19, 1945, Southern District of New York, Eastern District of Kentucky, District of Nebraska, and Southern District of Iowa.

**ALLEGED SHIPMENT:** Between the approximate dates of January 10 and February 2, 1945, by Charles R. Allen, from New Orleans, La.

**PRODUCT:** Sweet chocolate bars. 60 cases, each containing 20 boxes, at New York, N. Y.; 2 cases, each containing 20 boxes, at Mount Sterling, Ky.; 3,852 6-ounce bars at Norfolk, Nebr.; and 65 boxes at Council Bluffs, Iowa. Each box contained 25 6-ounce bars.

**LABEL, IN PART:** "Sweet Chocolate \* \* \* Product of Argentine."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, larvae, insect excreta, and webbing.

**DISPOSITION:** April 17, May 25, August 31, and September 28, 1945. Charles R. Allen, claimant for the New York lot, having admitted the allegations of the libel, and no claimants having appeared for the other lots, judgments of condemnation were entered. It was ordered that the New York lot be released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration, and that the other lots be destroyed.

**9693. Adulteration of chocolate coating. U. S. v. Boldemann Chocolate Co. Plea of guilty. Fine, \$150.** (F. D. C. No. 16618. Sample Nos. 28198-H, 28914-H, 28915-H, 29243-H, 29247-H, 29248-H.)

**INFORMATION FILED:** November 29, 1945, Northern District of California, against the Boldemann Chocolate Co., a partnership, San Francisco, Calif.

**ALLEGED SHIPMENT:** Between the approximate dates of March 28 and April 7, 1945, from the State of California into the States of Washington and Utah.

**LABEL, IN PART:** "Boldemann's Sweet Coating Octoroon [or "Duchess," or "Mellomilk"]."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, cat hairs, and similar hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 13, 1945. A plea of guilty having been entered, the court imposed a fine of \$25 on each count, a total fine of \$150.

**9694. Adulteration of milk chocolate coating. U. S. v. 343 Boxes and 384 Boxes of Milk Chocolate Coating. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17004, 17005. Sample Nos. 24867-H, 24868-H.)

**LIBELS FILED:** September 21, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about April 27 and June 20, 1945, by Walter Baker and Co., Inc., from Milton, Mass.

**PRODUCT:** 727 boxes, each containing 5 10-pound bars, of milk chocolate coating at New Orleans, La. Examination showed that the product contained insect excreta and mold.

**LABEL, IN PART:** "La Belle Chocolatiere Milk Chocolate Coating," or "Milk Chocolate Coating Mayflower."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** September 26, 1945. The Jacobs Candy Co., Inc., New Orleans, La., having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond for the segregation and reclamation of the fit portion and the conversion of the remainder for nonfood use, under the supervision of the Federal Security Agency.

**9695. Adulteration and misbranding of cocoa and cocoa substitute. U. S. v. Joseph B. Robinson (J. B. Robinson). Plea of guilty. Fine, \$2,500 and costs, and sentence of 6 months' imprisonment.** (F. D. C. No. 14266. Sample Nos. 23654-F, 43194-F, 47673-F.)

**INFORMATION FILED:** April 5, 1945, Northern District of Ohio, against Joseph B. Robinson, trading as J. B. Robinson, Cleveland, Ohio.

**ALLEGED SHIPMENT:** On or about May 6, October 7, and November 2, 1943, from the State of Ohio into the States of Pennsylvania, Missouri, and Oregon.

**LABEL, IN PART:** "Robinson's Delicious Breakfast Cocoa Substitute," or "Robinson's Fine Breakfast Cocoa Substitute"; (portion) "1 Sack 100 lbs. Dark Cocoa" [or "Sweet Cocoa"]. The remainder of the cocoa bore no label giving the name of the product, but it was invoiced as "cocoa."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the cocoa substitute and a portion of the cocoa consisted in whole or in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, and hairs and hair fragments resembling rodent hairs.

Further adulteration (lot labeled "Dark Cocoa" and lot invoiced as "Cocoa"), Section 402 (b) (2), a mixture of cacao shell and powdered cacao bean had been substituted in whole or in part for cocoa; and, Section 402 (b) (4), cacao shell had been added to the article and mixed and packed with it so as to reduce its quality and strength.

Misbranding, Section 403 (a), the label statement "Dark Cocoa" was false and misleading; Section 403 (b), a mixture of cacao shell and powdered cacao bean had been offered for sale under the name of another food, "Cocoa" or "Dark Cocoa"; and, Section 403 (e) (2), the lot invoiced as "Cocoa" failed to bear a label containing a statement of the quantity of the contents.

**DISPOSITION:** On January 29, 1946, the defendant pleaded guilty. On March 28, 1946, the defendant was sentenced to 6 months' imprisonment and fined \$2,500, plus costs.

## DAIRY PRODUCTS

### BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 9696 to 9703; that was below the standard for milk fat content, Nos. 9700 to 9717; and that was short of the declared weight, Nos. 9717 and 9718.



**9696. Adulteration of butter. U. S. v. 190 Cubes (13,300 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17110. Sample No. 17731-H.)**

**LIBEL FILED:** July 24, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 27, 1945, by the Wellington Creamery, from Wellington, Tex.

**PRODUCT:** 190 cubes, each containing about 70 pounds, of butter at Chicago, Ill. Analysis disclosed that the product contained rodent hairs, hairs resembling rodent hairs, insect fragments, and an insect egg.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 10, 1945. The Peter Fox Sons Co., Chicago, Ill., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9697. Adulteration of butter. U. S. v. 51 Tubs and 101 Tubs of Butter. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 17100, 17106. Sample Nos. 3504-H, 3506-H.)**

**LIBELS FILED:** July 19 and 20, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about July 10 and 17, 1945, by the Elliott Ice Co., from Charlottesville, Va.

**PRODUCT:** 51 tubs and 101 tubs, each containing 63 pounds, of butter at Baltimore, Md. Analysis showed that the product contained mold.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed animal substance.

**DISPOSITION:** July 25, 1945. The H. L. Piel Co., Baltimore, Md., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law. The butter was converted into butter oil, under the supervision of the Food and Drug Administration.

**9698. Adulteration of butter. U. S. v. 333 Boxes and 667 Cartons of Butter. Consent decrees ordering release of product under bond. (F. D. C. Nos. 17064, 17372. Sample Nos. 3228-H, 10134-H.)**

**LIBELS FILED:** August 6 and 17, 1945, Eastern District of Virginia and Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 28 and July 20, 1945, by the Peter Fox Sons Co., from Chicago, Ill.

**PRODUCT:** 333 boxes, each containing 30 or 50 1-pound prints, of butter at Pittsburgh, Pa., and 667 cartons, each containing 30 1-pound prints, of the same product at Norfolk, Va. Examination showed that the Pittsburgh lot was decomposed, and that the Norfolk lot contained mold.

**LABEL, IN PART:** (Portion) "U-Wanthe Best Brand Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed substance.

**DISPOSITION:** Peter Fox Sons Co. appeared as claimant and admitted the material allegations of the libels. On October 17, 1945, the Pittsburgh lot was ordered released under bond for conversion into refined butter oil, and on October 21, 1945, the Norfolk lot was condemned and ordered released under bond for similar conversion.

**9699. Adulteration of butter. U. S. v. 17 Boxes (1,020 pounds) of Butter. Default decree of condemnation. Product ordered disposed of for fat salvage. (F. D. C. No. 16724. Sample Nos. 20746-H, 21302-H.)**

**LIBEL FILED:** On or about July 2, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about April 5, 1945, by the Reno Creamery Co., from Hutchinson, Kans.

**PRODUCT:** 17 60-pound boxes of butter at Kansas City, Mo.

**LABEL, IN PART:** (Prints) "Golden West Brand Butter."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed animal substance.

**DISPOSITION:** October 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a rendering plant for fat salvage.

**9700. Adulteration of butter. U. S. v. 27 Cubes (1,890 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16720. Sample No. 32422-H, 32423-H.)

**LIBEL FILED:** June 25, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about June 10, 1945, by Price's Creameries, Inc., from Portales, N. Mex.

**PRODUCT:** 27 70-pound cubes of butter at Los Angeles, Calif. Examination revealed that the butter was filthy by reason of rodent contamination.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance; Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 20, 1945. Price's Creameries, Inc., El Paso, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be processed into butter oil, provided it could be determined that the butter oil would be fit for human consumption; otherwise the butter was to be disposed of for purposes other than human consumption, under the supervision of the Food and Drug Administration.

**9701. Adulteration of butter. U. S. v. 74 Cases of Butter. Product ordered released under bond.** (F. D. C. No. 16723. Sample Nos. 10526-H, 10527-H.)

**LIBEL FILED:** June 25, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about June 2 and 3, 1945, by the Pure Milk Corporation, from Steubenville, Ohio.

**PRODUCT:** 74 cases, each containing 30 1-pound prints, of butter at Pittsburgh, Pa.

**LABEL, IN PART:** (Print wrapper) "Kreme-Rich \* \* \* Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed animal substance; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 31, 1945. The Pure Milk Corporation, claimant, having admitted the allegations of the libel, judgment was entered ordering the release of the product under bond. The filthy and decomposed portion was to be sold for soap manufacture, and the portion low in milk fat was to be reworked under the supervision of the Food and Drug Administration.

**9702. Adulteration of butter. U. S. v. 12 Cases and 67 Cases of Butter. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 16672, 16673. Sample Nos. 22071-H, 22072-H.)

**LIBELS FILED:** June 1, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about May 21, 1945, by the Armour Creameries, from Springfield, Mo.

**PRODUCT:** 79 cases, each containing 32 pounds, of butter at National Stock Yards, Ill. One lot of this butter was low in milk fat, and the other lot contained mold.

**LABEL, IN PART:** "Armour's Cloverbloom Butter Armour Creameries Distributors Gen'l Office Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), a portion of the product consisted in whole or in part of a filthy or decomposed animal substance; and, Section 402 (b) (2), a portion containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 21, 1945. Armour & Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be reworked into refined butter oil, under the supervision of the Food and Drug Administration.

**9703. Adulteration and misbranding of butter. U. S. v. 735 60-Pound Cartons of Butter (and 3 other seizure actions against butter). Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 16722, 17102, 17103, 17368. Sample Nos. 18369-H, 19060-H, 19063-H, 31145-H, 31148-H.)

**LIBELS FILED:** June 21 and July 6, 12, and 31, 1945, Districts of Minnesota and Arizona; libel filed in District of Arizona amended August 4, 1945.

**ALLEGED SHIPMENT:** May 24 and June 1 and 7, 1945, by the Lakeside Butter Co., from Spring Valley and Dallas, Wis., and Waterloo, Iowa.

**PRODUCT:** 735 60-pound cartons, 66 65-pound boxes, and 1,000 cases, each containing 32 1-pound prints, of butter at St. Paul, Minn., and Phoenix Ariz.

**LABEL, IN PART:** (Arizona lot) "1 First Quality 1 Meadow Wood Brand \* \* \* Grade A Oregon Butter."

**NATURE OF CHARGE:** Adulteration (Minnesota lots), Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter; and (Arizona lot), the product consisted in whole or in part of a filthy or decomposed animal substance, or it was otherwise unfit for food.

Misbranding (Arizona lot), Section 403 (a), the label statements, "1 First Quality 1" and "Grade A Oregon Butter," were false and misleading since the article was not first quality, and it was not Oregon butter.

**DISPOSITION:** September 26, 1945. Plymouth Products, Inc., Oakland, Calif., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond, conditioned that the Minnesota lots be reworked to the legal standard; that the unfit portion of the Arizona lot be segregated and disposed of for nonfood purposes; and that the remainder be relabeled under the supervision of the Federal Security Agency.

**9704. Adulteration of butter. U. S. v. John R. Haman (Towner Creamery). Plea of guilty. Fine, \$250.** (F. D. C. No. 16500. Sample No. 19037-H.)

**INFORMATION FILED:** July 20, 1945, District of North Dakota, against John R. Haman, trading as the Towner Creamery, Towner, N. Dak.

**ALLEGED SHIPMENT:** On or about May 8, 1945, from the State of North Dakota into the States of Minnesota and New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 21, 1945. The defendant having entered a plea of guilty, the court imposed a fine of \$250.

**9705. Adulteration of butter. U. S. v. Henry Joseph Fachinger (Lanesville Creamery Co.). Plea of guilty. Fine, \$200.** (F. D. C. No. 16560. Sample Nos. 13120-H to 13123-H, incl., 13126-H to 13136-H, incl.)

**INFORMATION FILED:** October 27, 1945, Southern District of Indiana, against Henry Joseph Fachinger, trading as the Lanesville Creamery Co., Lanesville, Ind.

**ALLEGED SHIPMENT:** Between the approximate dates of July 14 and October 26, 1944, from the State of Indiana into the State of Kentucky.

**LABEL, IN PART:** "Daisy Brand [or "Autumn Leaf"] Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 23, 1945. The defendant having entered a plea of guilty, the court imposed a fine of \$200.



**9706. Adulteration of butter. U. S. v. Plymouth Creamery Co., and William Bos. Pleas of guilty. Fine, \$200 and costs. (F. D. C. No. 16610. Sample Nos. 5685-H, 7455-H.)**

**INFORMATION FILED:** November 21, 1945, Northern District of Iowa, against the Plymouth Creamery Co., a corporation, Le Mars, Iowa, and William Bos, president.

**ALLEGED SHIPMENT:** On or about March 30 and August 14, 1945, from the State of Iowa into the State of New York.

**LABEL, IN PART:** "Butter Distributed by Standard Butter and Egg Co. New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 11, 1945. Pleas of guilty having been entered on behalf of the corporate defendant and by the individual defendant, both defendants were fined \$50 on each count, a total fine of \$200 plus costs.

**9707. Adulteration of butter. U. S. v. Breda Creamery Corporation and Gerald A. Roth. Pleas of guilty. Fine, \$300 and costs. (F. D. C. No. 16607. Sample Nos. 7101-H, 7104-H.)**

**INFORMATION FILED:** October 30, 1945, Northern District of Iowa, against the Breda Creamery Corporation, Breda, Iowa, and Gerald A. Roth, secretary-treasurer.

**ALLEGED SHIPMENT:** On or about May 1, 1945, from the State of Iowa into the State of New Jersey.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 11, 1945. Pleas of guilty having been entered by the individual defendant and for the corporate defendant, the court imposed a fine of \$150 against each defendant, a total of \$300, plus costs.

**9708. Adulteration of butter. U. S. v. Beatrice Creamery Co. (Blue Valley Creamery Co.) Plea of guilty. Fine, \$500. (F. D. C. No. 15555. Sample No. 86401-F.)**

**INFORMATION FILED:** July 13, 1945, Southern District of Ohio, against the Beatrice Creamery Co., a corporation, trading under the firm name Blue Valley Creamery Co., at Columbus, Ohio.

**ALLEGED SHIPMENT:** On or about June 5, 1944, from the State of Ohio into the State of Illinois.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been omitted in part from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** On November 19, 1945, a plea of guilty having been entered, the court imposed a fine of \$1,000. On April 22, 1946, the fine was reduced to \$500.

**9709. Adulteration of butter. U. S. v. St. Stephen Cooperative Creamery Association. Plea of guilty. Fine, \$200. (F. D. C. No. 16508. Sample Nos. 19011-H, 19242-H.)**

**INFORMATION FILED:** November 2, 1945, District of Minnesota, against the St. Stephen Cooperative Creamery Association, a corporation, Rice, Minn.

**ALLEGED SHIPMENT:** On or about April 5 and May 31, 1945, from the State of Minnesota into the State of Pennsylvania.

**LABEL, IN PART:** "Butter \* \* \* Distributed by C. G. Heyd and Co., Philadelphia, Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 20, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100 on each of the two counts.

**9710. Adulteration of butter. U. S. v. Armour and Co. Plea of nolo contendere. Fine, \$100 and costs.** (F. D. C. No. 16544. Sample Nos. 66946-F, 66948-F, 98658-F, 98659-F.)

**INFORMATION FILED:** September 4, 1945, Western District of Oklahoma, against Armour and Co., a corporation, having places of business at Elk City and Woodward, Okla.

**ALLEGED SHIPMENT:** Between the approximate dates of May 15 and June 29, 1944, from the State of Oklahoma into the State of Missouri.

**LABEL, IN PART:** "Armour's Cloverbloom."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted and abstracted from the product; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** September 18, 1945. A plea of nolo contendere having been entered on behalf of the corporation, a fine of \$100, plus costs, was imposed.

**9711. Adulteration of butter. U. S. v. 17 Cases of Butter (and 2 other seizure actions against butter). Consent decree of condemnation. Product ordered released under bond to be reworked.** (F. D. C. Nos. 17104, 17107, 17108. Sample Nos. 11549-H, 11956-H, 11959-H.)

**LIBELS FILED:** Between July 9 and and July 16, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** Between the approximate dates of May 10 and June 28, 1945, by the Granite City Cooperative Creamery Association, Inc., from Barre, Vt.

**PRODUCT:** 17 52-pound cases and 14 52-pound cubes of butter at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 10, 1945. The Granite City Cooperative Creamery Association, Inc., claimant, having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9712. Adulteration of butter. U. S. v. 59 30-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17099. Sample No. 5770-H.)

**LIBEL FILED:** July 26, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 12, 1945, by the Leon Creamery Co., from Leon, Iowa.

**PRODUCT:** 59 cartons, each containing 30 1-pound prints, of butter at New York, N. Y.

**LABEL, IN PART:** "Butter Distributed by J. R. Kramer, Inc., New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 22, 1945. J. R. Kramer, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9713. Adulteration of butter. U. S. v. 12 65-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17101. Sample No. 5768-H.)

**LIBEL FILED:** July 21, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 7, 1945, by the Twin Rivers Co., Inc., from Grand Island, Nebr.

**PRODUCT:** 12 65-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Creamery Butter Distributed by United Creameries Service, Omaha, Nebr. \* \* \* Butter S. & W. Waldbaum Inc. Distributors New York, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 31, 1945. The Callaway Co-op Creamery, Callaway, Nebr., claimant, having admitted the allegations of the libel, judgment of condemna-



tion was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9714. Adulteration of butter. U. S. v. 13 64-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16678. Sample No. 19044-H.)**

**LIBEL FILED:** June 8, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 22, 1945, by the Bowman Creamery Co., from Bowman, N. Dak.

**PRODUCT:** 13 64-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Butter John Doscher & Co. Distributors New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 20, 1945. The Standard Butter and Egg Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**9715. Adulteration of butter. U. S. v. 7 Cartons (420 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 16675. Sample No. 19242-H.)**

**LIBEL FILED:** June 11, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 31, 1945, by the St. Stephen Coop. Creamery, from St. Stephen, Minn.

**PRODUCT:** 7 60-pound cartons of butter at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 29, 1945. C. G. Heyd and Co., Philadelphia, Pa., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9716. Adulteration of butter. U. S. v. 5 Cartons (250 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16681. Sample No. 19014-H.)**

**LIBEL FILED:** April 21, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 11, 1945, by the Farmer's Cooperative Trucking Association, from Wadena, Minn.

**PRODUCT:** 5 50-pound cartons of butter at Philadelphia, Pa.

**LABEL, IN PART:** "Butter Distributed by C. G. Heyd & Co. \* \* \* Phila., Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 30, 1945. C. G. Heyd & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9717. Adulteration and misbranding of butter. U. S. v. 45 Cases and 36 Cases of Butter. Decrees of condemnation. Product ordered released under bond. (F. D. C. No. 16679. Sample Nos. 13139-H, 13142-H, 13144-H.)**

**LIBELS FILED:** On or about June 8, 1945, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about May 12 and 25, 1945, by the Lanesville Creamery Co., from Lanesville, Ind.

**PRODUCT:** 45 30-pound cases and 36 30-pound cases of butter at Louisville, Ky. Analysis showed that the 45-case lot was deficient in milk fat, and that the 36-case lot was short-weight.

**LABEL, IN PART:** "Autumn Leaf Creamery Butter \* \* \* 1 LB. Net."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), (45-case lot) the article contained less than 80 percent by weight of milk fat.

Misbranding, Section 403 (a), the label statement "1 Lb. Net" was false since the cartons did not contain 1 pound of butter; and, Section 403 (e) (2), the label failed to bear a correct statement of the quantity of the contents.



**DISPOSITION:** June 25, 1945. The Lanesville Creamery Co. having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond, conditioned that it be reworked and brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9718. Misbranding of butter. U. S. v. 439 Cartons and 290 Cartons (23,328 pounds) of Butter. Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 15779, 15780. Sample Nos. 5665-H, 5714-H.)

**LIBEL FILED:** On or about March 13, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 23 and 24, 1945, by the American Dairy Co., Scranton, Pa., from New York, N. Y.

**PRODUCT:** 729 cartons, each containing 32 1-pound prints, of butter at Jersey City, N. J. The product was short-weight.

**LABEL, IN PART:** "One Pound Net Creamery Butter Packed by Ben Goldenberg, Inc., New York, N. Y."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 14, 1945. Philip H. Bricker, trading as the American Dairy Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the butter was ordered released under bond for reprinting to the correct weight, under the supervision of the Food and Drug Administration.

#### CHEESE

**9719. Action to enjoin and restrain the interstate shipment of adulterated cheese and cheese products. U. S. v. Conestoga Cream and Cheese Manufacturing Corporation and Snier Sam Silberman, also known as Sam Silberman. Tried to the court. Injunction granted.** (Inj. No. 81.)

**COMPLAINT FILED:** March 21, 1945, Northern District of Ohio, against the Conestoga Cream and Cheese Manufacturing Corporation, Lima, Ohio, and Snier Sam Silberman, also known as Sam Silberman, plant manager.

**NATURE OF CHARGE:** That for several years, and particularly since October 6, 1942, the defendants had been preparing, packing, processing, and manufacturing, and offering for interstate shipment and shipping in interstate commerce, cheese and cheese products; that numerous investigations had been made by the Food and Drug Administration which disclosed the existence of insanitary conditions in the plant of the defendants by reason of the presence of insects, rodent excreta, and other foreign matter, and filthy and unwholesome substances in and around places in the plant where the foods were manufactured, in and around raw materials and substances from which the foods were manufactured, in and around places in the plant where the foods were packed, in and around machinery and equipment for manufacturing the foods and containers for the foods, and in and around the finished foods; that the investigations disclosed further that the buildings where the foods were prepared, packed, and held, were in a state of disrepair and dilapidation, and that the windows were unscreened, subjecting the foods prepared in the plant to contamination by insects, rodents, and other sources.

The complaint alleged further that the products prepared and packed under the aforesaid conditions were adulterated as follows: Section 402 (a) (3), they consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**PRAYER OF COMPLAINT:** That a preliminary injunction issue, restraining the defendants from commission of the acts complained of; and that, after due proceedings, the preliminary injunction be made permanent.

**DISPOSITION:** June 6, 1945. The case having come on for hearing, and having been submitted to the court on the pleadings, statements of counsel, and stipulation of facts, the court made the following findings of fact and conclusions of law:

KLOEB, *District Judge:*



## FINDINGS OF FACT

"Upon statement of counsel, Marcus L. Friedman, Assistant United States Attorney for the Northern District of Ohio, Western Division, and Eugene Farber, of Farber and Cochrane, attorneys for the defendants, the Court makes the following findings of fact:

"1. That the said Conestoga Cream and Cheese Manufacturing Corporation is a corporation organized and existing under the laws of the State of New York, and has a place of business at Lima, Ohio.

"2. That Snier Sam Silberman, also known as Sam Silberman, an individual, is Manager of the said place of business at Lima, Ohio.

"3. Between October, 1942 and June 6, 1945, the Lima, Ohio branch of Conestoga Cream and Cheese Manufacturing Corporation was engaged in the manufacture of cheese, a majority of which was shipped in interstate commerce.

"4. During the said period, the said defendants shipped in interstate commerce, cheese products which contained foreign and adulterated matter.

"5. That the plant was in an insanitary condition.

"6. That such cheese products as were manufactured by the cheese company at its plant at Lima, Ohio, were unfit for food.

## CONCLUSIONS OF LAW

"1. The Court has jurisdiction of the parties and the subject matter in this case.

"2. That Congress intended that the word, 'filthy' as used in the Act should be construed to have its usual and ordinary meaning.

"3. That the products manufactured by the Conestoga Cream and Cheese Manufacturing Corporation contained foreign and adulterated substances, and were shipped in interstate commerce, contrary to the Act; and within the meaning of Title 21, U. S. C. A., Section 332 (a), in that it consisted in part of filthy and decomposed substances and was unfit for food.

"4. That the relief prayed for in the Complaint should be granted."

The court thereupon announced that the defendants would be given until June 30, 1945, to correct the conditions complained of, or otherwise an injunction would be issued.

On June 28, 1945, the court entered an order permanently enjoining the defendants from shipping in interstate commerce, adulterated cheese products made in their Lima, Ohio, plant.

On July 25, 1945, the defendants filed an application to vacate the injunction. The application was denied by the court on January 7, 1946.

**9720. Action to enjoin and restrain the interstate shipment of adulterated cheese and cheese products. U. S. v. Leo Williams, trading as Leo Williams, L. W. Williams, Lakeside Creamery, and Lakeside Cheese Co. Tried to the court. Consent decree ordering permanent injunction. (Inj. No. 125.)**

**COMPLAINT FILED:** November 8, 1945, District of Vermont, against Leo Williams, Craftsbury, Vt., trading under the above names.

**NATURE OF CHARGE:** That since July 26, 1945, the defendant had been preparing, packing, and offering for interstate shipment and shipping in interstate commerce, cheese or milk curd under insanitary conditions; that the product so prepared, packed, and shipped, was adulterated in violation of Section 402 (a) (3), in that it consisted in whole or in part of a filthy substance which was unfit for food; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it became contaminated with filth. The complaint also charged the existence, among other conditions, of the following: The plant of the defendant was insanitary and was fly- and rodent-infested. Milk accepted and used in the manufacture of cheese contained sand, manure fragments, rodent hair fragments, cow hair fragments, and similar filth. The defendant had been accepting and using whole milk that had been rejected by fluid milk receiving stations of the area. Flies breeding in manure and in a nearby pig lot had free access to the plant.

The complaint alleged also that several seizures had been made of the defendant's products which had been shipped in interstate commerce and which were found to contain one or more of the following: Rodent, cat, and cow hairs, and insect fragments and whole insects.



**PRAYER OF COMPLAINT:** That process issue and, after hearing, a preliminary injunction issue, restraining the defendant from shipping in interstate commerce adulterated food which he had manufactured or would manufacture in the future; and that, after due proceedings, the preliminary injunction be made permanent.

**DISPOSITION:** The defendant was ordered to show cause why a preliminary injunction should not issue as prayed. On December 21, 1945, the defendant having consented, a preliminary injunction was issued. On March 6, 1946, the case having come on for hearing, and evidence having been introduced on behalf of the Government and the defendant, counsel for the defendant announced that no objection would be made to the granting of a permanent injunction. Judgment was thereupon entered, permanently enjoining the defendant and all acting on his behalf from the commission of the acts complained of.

**9721. Adulteration and misbranding of grated cheese. U. S. v. Wm. Faehndrich, Inc., and Rudolph H. Faehndrich. Pleas of guilty. Fine, \$750 against corporate defendant. Suspension of imposition of sentence against individual defendant. (F. D. C. No. 12607. Sample No. 35253-F.)**

**INFORMATION FILED:** August 29, 1945, Southern District of New York, against Wm. Faehndrich, Inc., New York, N. Y., and Rudolph W. Faehndrich, president of the corporation.

**ALLEGED SHIPMENT:** February 20, 1944, from the State of New York into the State of Florida.

**PRODUCT:** This product was packed under two different labels. One label represented it to be an all cheese product; the other, a mixture of cheese with 15 percent added milk solids. Examination of samples showed that both lots contained approximately 35 percent of dried skim milk, and that they contained filth.

**LABEL, IN PART:** "Famous Brand \* \* \* Grated \* \* \* Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, a rodent excreta pellet fragment, a human hair fragment, and a cow hair fragment; Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (b) (2), (portion) a substance consisting of grated cheese and added dried skim milk had been substituted in whole or in part for grated cheese, and (remainder) a mixture of about 65 percent of grated cheese and about 35 percent of added dried skim milk had been substituted for a mixture of 85 percent of grated cheese and 15 percent of added milk solids; and, Section 402 (b) (4), (portion labeled "An All Cheese Product") dried skim milk had been added to the article and mixed and packed with it so as to reduce its quality.

Misbranding, Section 403, (a), (portion) the statements on the labels, "Grated Cheese" and "An All Cheese Product," and (remainder) "Grated Cheese" and "15% Added Milk Solids," were false and misleading; Section 403 (b), the article was offered for sale under the name of another food; and, Section 403 (i) (2), its labels did not bear the common or usual name of one of its ingredients, i. e., dried skim milk.

**DISPOSITION:** November 1, 1945. Pleas of guilty having been entered on behalf of both defendants, the court imposed a fine of \$250 on each of the 3 counts against the corporate defendant. Imposition of sentence against the individual defendant was suspended, and he was placed on probation for a period of 1 day.

**9722. Adulteration of cheese spread. U. S. v. Spring Green Creamery and Cheese Industry, Inc. Plea of guilty. Fine, \$800. (F. D. C. No. 16575. Sample Nos. 78967-H, 97709-F to 97711-F, incl.)**

**INFORMATION FILED:** October 25, 1945, Western District of Wisconsin, against Spring Green Creamery and Cheese Industry, Inc., Spring Green, Wis.

**ALLEGED SHIPMENT:** On or about November 3, 10, and 28, 1944, from the State of Wisconsin into the States of Illinois and Minnesota.

**LABEL, IN PART:** "Prins Hendrix Cheese Spread."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect parts and fragments, mites, cat hairs, hairs resembling rodent hairs, feather barbules, insect eggs, manure fragments, and a paint fragment.

**DISPOSITION:** December 4, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$200 on each count, a total fine of \$800.

**9723. Adulteration of Cheddar cheese. U. S. v. 14 Cheeses. Default decree of condemnation. Product ordered delivered to a local hospital.** (F. D. C. No. 16394. Sample Nos. 24436-H, 24439-H.)

**LIBEL FILED:** On or about June 11, 1945, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about May 2, 1945, by Wilson & Co., from Macon, Miss.

**PRODUCT:** 14 20-pound Cheddar cheeses at New Orleans, La. Analysis showed that the product failed to meet the standard of identity for Cheddar cheese, since its solids contained less than 50 percent of milk fat.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an article deficient in milk fat had been substituted in whole or in part for Cheddar cheese.

**DISPOSITION:** August 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a local hospital.

**9724. Adulteration of Cheddar cheese. U. S. v. 28,090 Pounds of Cheddar Cheese. Default decree of condemnation and destruction.** (F. D. C. No. 17059. Sample Nos. 43416-H, 43417-H.)

**LIBEL FILED:** September 21, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about August 18 and 25, 1945, by the Fremont County Dairymen's Cooperative Marketing Association, from Hudson, Wyo.

**PRODUCT:** 28,090 pounds of Cheddar cheese at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots, insect fragments, and dirt.

**DISPOSITION:** October 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9725. Adulteration of cheese curd. U. S. v. 9 Barrels of Cheese Curd. Default decree of condemnation and destruction.** (F. D. C. No. 16991. Sample No. 30558-H.)

**LIBEL FILED:** August 4, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about July 20 and 21, 1945, by the Central Avenue Dairy, from Phoenix, Ariz.

**PRODUCT:** 9 unlabeled barrels, each containing from 300 to 400 pounds, of cheese curd at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots and insect fragments.

**DISPOSITION:** October 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9726. Adulteration of curd cheese. U. S. v. 620 Boxes of Washed Curd Cheese. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17072. Sample No. 5763-H.)

**LIBEL FILED:** July 28, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 2, 1945, by the Middle States Cheese and Butter Manufacturing Co., from Shelbyville, Ill.

**PRODUCT:** 620 73-pound boxes of washed curd cheese at New York, N. Y.

**LABEL, IN PART:** "Illinois Washed Curd Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of decomposed and moldy cheese.

**DISPOSITION:** December 5, 1945. The Hygrade Food Products Corporation, claimant, having admitted the allegation of the libel, judgment of condemnation was entered and the product was ordered released under bond for the

segregation of that portion which was fit for human consumption from that which was unfit. The unfit portion was to be denatured and destroyed under the supervision of the Federal Security Agency.

### EGGS

**9727. Adulteration of frozen whole eggs. U. S. v. 703 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16716. Sample No. 7782-H.)**

**LIBEL FILED:** July 27, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about June 16, 1945, by the Selby Poultry & Egg Co., from Burlington, Iowa.

**PRODUCT:** 703 30-pound cans of frozen whole eggs at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 29, 1945. Harry Atlas Sons, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the segregation and denaturing of the unfit portion, under the supervision of the Federal Security Agency.

**9728. Adulteration of frozen whole eggs. U. S. v. 213 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17078. Sample No. 7516-H.)**

**LIBEL FILED:** July 31, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about June 11, 1945, by the Sam Pollman Produce Co., from Kansas City, Mo.

**PRODUCT:** 213 30-pound cans of frozen whole eggs at Jersey City, N. J.

**LABEL, IN PART:** (Portion) "Frozen Whole Eggs \* \* \* Packed for Western Frozen Egg Corp."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 5, 1945. The Western Frozen Egg Corporation, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed or denatured under the supervision of the Food and Drug Administration.

**9729. Adulteration of frozen whole eggs. U. S. v. 137 Cans of Frozen Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16656. Sample No. 7090-H.)**

**LIBEL FILED:** June 28, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about June 5, 1945, by the Wilson Poultry & Egg Co., from Cincinnati, Ohio.

**PRODUCT:** 137 30-pound cans of frozen whole eggs at Brooklyn, N. Y.

**LABEL, IN PART:** "Frozen Whole Eggs Mitchell Produce Co. Mitchell, S. D."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 5, 1945. The Wilson Poultry & Egg Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the segregation and denaturing of the unfit portion, under the supervision of the Federal Security Agency.

**9730. Adulteration of frozen whole eggs. U. S. v. 197 Packages of Frozen Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 16858. Sample No. 9469-H.)**

**LIBEL FILED:** July 13, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about May 29, 1945, by H. E. Edson, account L. D. Schreiber & Co., from Detroit, Mich.

**PRODUCT:** 197 15-pound packages of frozen whole eggs at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9731. Adulteration of frozen whole eggs. U. S. v. 119 Cans of Frozen Whole Eggs. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16970. Sample No. 20780-H.)

**LIBEL FILED:** On or about August 6, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about May 29 and June 19, 1945, by Ed. Aaron, Inc., from Fort Scott, Kans.

**PRODUCT:** 119 cans of frozen whole eggs at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 4, 1945. The Edward Aaron Company having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The edible portion of the product was segregated and released, and the remainder was destroyed.

**9732. Adulteration of shell eggs. U. S. v. 600 Cases and 450 Cases of Shell Eggs. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17048, 17121. Sample Nos. 7302-H, 23322-H.)

**LIBELS FILED:** August 13 and 17, 1945, Eastern District of Missouri and District of New Jersey.

**ALLEGED SHIPMENT:** On or about July 5 and 10, 1945, by Goodrich & Shackelford, Inc., from Le Roy, Minn.

**PRODUCT:** 600 cases each containing 30 dozen shell eggs at St. Louis, Mo., and 450 cases of the same product at Jersey City, N. J. Examination showed the presence of putrid, moldy, and decomposed eggs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid and decomposed substance.

**DISPOSITION:** September 5, 1945. Adolph Fortgang and Co., New York, N. Y., and Goodrich and Shackelford, Inc., claimants, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for the segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency.

## FISH

**9733. Adulteration of salmon. U. S. v. Andrew S. Day (North Pacific Sea Foods). Plea of guilty. Fine, \$120.** (F. D. C. No. 6400. Sample Nos. 5143-E, 35543-E, 35699-E, 40098-E, 46460-E.)

**INFORMATION FILED:** June 17, 1942, District of Alaska, against Andrew S. Day, trading as North Pacific Sea Foods, at Valdez and Dayville, Alaska.

**ALLEGED SHIPMENT:** Between the approximate dates of August 2 and October 25, 1940, from the Territory of Alaska into the State of Washington.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 5, 1945. A plea of guilty having been entered, the court imposed a fine of \$15 on each of the 8 counts of the information.

**9734. Adulteration of canned sardines. U. S. v. 100 Cases of Sardines. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 7373. Sample Nos. 89076-E, 89085-E.)

**LIBEL FILED:** April 13, 1942, Northern District of New York.

**ALLEGED SHIPMENT:** On or about December 13, 1941, by the California Packing Corporation, from Monterey, Calif.

**PRODUCT:** 100 cases of sardines at Albany, N. Y.

**LABEL, IN PART:** (Can) "Del Monte California Sardines \* \* \* Contents 15 Oz. Avoir."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 7, 1943. The California Packing Corporation, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

**9735. Adulteration of frozen fish fillets. U. S. v. 308 Boxes of Butterfly Whiting Fillets (and 2 other seizure actions against frozen fish fillets). Default decrees of condemnation and destruction.** (F. D. C. Nos. 16698, 17346, 17559. Sample Nos. 464-H, 1025-H, 1026-H, 1029-H.)

**LIBELS FILED:** July 18 and September 10 and 14, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** June 25 and August 20, 1945, by the Horton Seafood Co., from Gloucester, Mass.

**PRODUCT:** 308 15-pound boxes of frozen butterfly whiting fillets, 139 10-pound boxes of frozen rosefish fillets, and 13 15-pound boxes of frozen pollack fillets at Atlanta, Ga. Examination showed the presence, in all lots, of decomposed or putrid fish, some of which were also parasitized.

**LABEL, IN PART:** (Portion) "Butterfly Whiting Frank Bertolino and Son, Gloucester, Mass."; (remainder) "Pride of Gloucester Frosted Rosefish Fillets [or "Fresh Frozen \* \* \* Pollack"] Packed by Independent Fish Company, Gloucester, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), a portion of the articles consisted in whole or in part of putrid or decomposed substances, and the remainder of the fillets, of filthy and putrid substances.

**DISPOSITION:** October 5 and 17 and November 9, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

**9736. Adulteration of frozen haddock fillets. U. S. v. 92 Boxes of Haddock Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 17006. Sample No. 13969-H.)

**LIBEL FILED:** August 7, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 12, 1945, by Leonard Brothers, Ltd., from North Sydney, Nova Scotia.

**PRODUCT:** 92 15-pound boxes of frozen haddock fillets.

**LABEL, IN PART:** "Frozen Haddock Fillets Skinless \* \* \* Seabright Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance.

**DISPOSITION:** September 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9737. Adulteration of frozen mackerel. U. S. v. 10 Barrels of Frozen Mackerel. Default decree of condemnation and destruction.** (F. D. C. No. 17120. Sample No. 6833-H.)

**LIBEL FILED:** August 21, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 16, 1945, by the Finest Fillet Co., from New Bedford, Mass.

**PRODUCT:** 10 150-pound barrels of frozen mackerel at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9738. Adulteration of frozen whiting. U. S. v. 500 Cartons of Frozen Whiting. Default decree of condemnation. Product ordered sold for purposes other than human consumption.** (F. D. C. No. 16985. Sample No. 22990-H.)

**LIBEL FILED:** August 3, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about July 18, 1945, by the Gorton Pew Fisheries Co., Ltd., from Gloucester, Mass.

**PRODUCT:** 500 10-pound cartons of frozen whiting at St. Louis, Mo.

**LABEL, IN PART:** "H G & S Whiting."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance.

**DISPOSITION:** September 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of such safeguards against its use for human consumption as might be directed by the Federal Security Agency.



**9739. Adulteration of frozen whiting. U. S. v. 388 Cartons of Frozen Whiting. Default decree of condemnation and destruction. (F. D. C. No. 17128. Sample No. 290-H.)**

**LIBEL FILED:** August 21, 1945, Middle District of North Carolina.

**ALLEGED SHIPMENT:** On or about July 20, 1945, by the W. I. Anderson Co., from Gloucester, Mass.

**PRODUCT:** 388 15-pound cartons of frozen whiting at Greensboro, N. C.

**LABEL, IN PART:** "Seacrest Brand Frozen Fish Packed by New England Fillet Co. Inc., Boston, Mass. \* \* \* H & G Whiting."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance by reason of the presence of putrid fish.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9740. Misbranding of spiced anchovies. U. S. v. 80 Barrels of Spiced Anchovies (and 2 other seizure actions against spiced anchovies). Consent decrees of condemnation. Product ordered released under bond to be relabeled. (F. D. C. Nos. 17082, 17083, 18148. Sample Nos. 6925-H, 7479-H.)**

**LIBELS FILED:** August 1 and October 11, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about June 19, 1945, by the Northern Herring Co., from St. Andrews, New Brunswick, Canada.

**PRODUCT:** 127 barrels of spiced anchovies at Brooklyn, N. Y.

**LABEL, IN PART:** "Spiced Anchovies (Spratts)."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Spiced Anchovies (Spratts)" was false and misleading since the product was sea herring.

**DISPOSITION:** August 1 and 2, 1945. B. Westergaard, claimant for 82 barrels, and North Atlantic Fisheries Products, Inc., claimant for 45 barrels, having admitted the allegations of the respective libels, judgments of condemnation were entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

## FRUITS AND VEGETABLES

### FRUITS AND FRUIT PRODUCTS\*

**9741. Adulteration of apples. U. S. v. 798 Boxes and 798 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16730. Sample Nos. 733-H, 734-H.)**

**LIBEL FILED:** March 10, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about February 15, 1945, by the Prentice Packing and Cold Storage Co., from Yakima, Wash.

**PRODUCT:** 1,596 40-pound boxes of apples at Atlanta, Ga.

**LABEL, IN PART:** "Kare-Ful-Pak Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product bore and contained an added poisonous and deleterious substance, fluorine, in a quantity which was unsafe within the meaning of the law, since the fluorine content was in excess of 7 milligrams per kilogram of apples, the limit fixed by regulation.

**DISPOSITION:** April 2, 1945. The Fidelity Fruit and Produce Co., Atlanta, Ga., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and testing under the supervision of the Food and Drug Administration. That portion of the fruit found fit for human consumption was to be released for distribution, and the remainder of the product was to be washed to remove excess fluorine residue.

**9742. Adulteration of canned cherries. U. S. v. 214 Cases and 10 Cases of Canned Cherries (and 7 other seizure actions against canned cherries). Consent decree of condemnation. Portion of product ordered destroyed; remainder ordered released under bond. (F. D. C. Nos. 15200, 15201, 15223, 15244 to 15248, incl., 15611. Sample Nos. 28003-H, 28242-H, 28507-H, 28708-H.)**

**LIBELS FILED:** Between February 9 and April 5, 1945, Western District of Washington.

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\*See also Nos. 9603-9607.

**ALLEGED SHIPMENT:** On or about January 4 and 6, 1945, by the Hunt Brothers Packing Co., from Salem, Oreg.

**PRODUCT:** 1,229 cases, each containing 24 1-pound, 14-ounce cans, of cherries at Seattle, Wash.

**LABEL, IN PART:** "Hunt's Supreme Quality Fancy Royal Anne Light Sweet Cherries In Extra Heavy Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots.

**DISPOSITION:** December 21, 1945. The claimant having consented to the entry of a decree, judgment of condemnation was entered and a portion of the cherries was ordered destroyed; the remainder of the product was ordered released under bond to be brought into compliance with the law by segregation of the unfit portion from the good, under the supervision of the Federal Security Agency.

**9743. Adulteration of dried figs. U. S. v. 3 Boxes and 172 Boxes of Dried Figs. Product ordered released under bond. (F. D. C. No. 16479. Sample Nos. 27259-H, 27266-H.)**

**LIBEL FILED:** June 25, 1945, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about March 20, 1945, by the Clara-Val Packing Co., from Morgan Hill, Calif.

**PRODUCT:** 3 25-pound boxes and 172 25-pound boxes of dried figs at Medical Lake, Wash.

**LABEL, IN PART:** "Clara-Val Standard Black Mission Figs [or "Choice Adriatic Figs"]l."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 20, 1945. The Clara-Val Packing Co., claimant, having admitted the allegations of the libel, judgment was entered and the product was ordered released under bond to be converted into alcohol by distillation, under the supervision of the Food and Drug Administration.

**9744. Adulteration of Greek olives. U. S. v. 190 Kegs of Greek Olives. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16657. Sample No. 11943-H.)**

**LIBEL FILED:** June 29, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 21, 1945, by the Harcourt Greene Co., from Fair Oaks, Calif.

**PRODUCT:** 190 125-pound kegs of various-sized olives at Boston, Mass.

**LABEL, IN PART:** "Ex-Large [or "Large," "Small," or "Mammoth"] Greek Olives \* \* \* Fair Oaks Fruit Corp. Fair Oaks Cal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 30, 1945. Musolino, LoConte Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law by washing under the supervision of the Federal Security Agency.

**9745. Adulteration of oil-cured olives. U. S. v. 60 Kegs of Oil-Cured Olives. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16750. Sample No. 16838-H.)**

**LIBEL FILED:** July 16, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 24, 1945, by the Charles Orlando Co., from Woodland, Calif.

**PRODUCT:** 13 kegs (standard), 30 kegs (medium), and 17 kegs (large) of oil-cured olives at Chicago, Ill.

**LABEL, IN PART:** "Brucia Co. Woodland Calif. Oil Cured Olives."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 12, 1945. Rubinelli, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9746. Adulteration of raisins. U. S. v. 325 Cases of Raisins (and 2 other seizure actions against raisins). Default decrees of condemnation. Product ordered delivered to the City Welfare Department, for use as animal feed.** (F. D. C. Nos. 17114, 17288, 17289. Sample Nos. 2914-H to 2917-H, incl.)

**LIBELS FILED:** August 10 and 21, 1945, District of Maryland.

**ALLEGED SHIPMENT:** Between the approximate dates of November 22, 1944, and February 17, 1945, by the Consolidated Packing Co., from Fresno and Livingston, Calif.

**PRODUCT:** 1,500 cases, each containing 30 pounds, of raisins at Baltimore, Md.

**LABEL, IN PART:** "Honey Bunch Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of moths, beetles, larvae, pupae, and cocoons.

**DISPOSITION:** October 18 and November 1, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to the City Welfare Department, for use as animal feed.

**9747. Adulteration of raisins. U. S. v. 132 Cases of Raisins. Default decree of condemnation and destruction.** (F. D. C. No. 17129. Sample No. 4263-H.)

**LIBEL FILED:** August 20, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 1, 1945, by West Coast Growers and Packers, from Fresno, Calif.

**PRODUCT:** 132 30-pound cases of raisins at Philadelphia, Pa.

**LABEL, IN PART:** "Wesco Brand \* \* \* Choice Seeded Muscat Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9748. Adulteration of raisins. U. S. v. 108 Cases of Raisins. Default decree of condemnation. Product ordered delivered to a public institution for use as stock feed.** (F. D. C. No. 16844. Sample No. 23772-H.)

**LIBEL FILED:** On or about August 3, 1945, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about December 29, 1944, by Rosenberg Brothers & Co., from Fresno, Calif.

**PRODUCT:** 108 30-pound cases of raisins at Houston, Tex.

**LABEL, IN PART:** "Fewel's Shamrock Brand Choice Thompson Seedless Raisins Packed by Fewel Bros. & Co. Fresno, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** August 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.

**9749. Adulteration of raisins. U. S. v. 65 Cartons of Raisins. Default decree of condemnation and destruction.** (F. D. C. No. 17170. Sample No. 13464-H.)

**LIBEL FILED:** August 23, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about February 20, 1945, by the Sun Maid Raisin Growers of California, from Fresno, Calif.

**PRODUCT:** 65 30-pound cartons of raisins at Toledo, Ohio.

**LABEL, IN PART:** "Sun-Maid Bakery Type Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of moths, larvae, and cocoons.

**DISPOSITION:** September 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9750. Adulteration of raisins. U. S. v. 14 Cartons of Raisins. Consent decree of condemnation and destruction.** (F. D. C. No. 17153. Sample No. 7901-H.)

**LIBEL FILED:** August 20, 1945, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about June 18, 1945, by the Interstate Bakers and Confectioners Supply Co., from New York, N. Y.

**PRODUCT:** 14 30-pound cartons of raisins at Scranton, Pa.

**LABEL, IN PART:** "Deluxe Brand Midget Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of moths and larvae.

**DISPOSITION:** October 29, 1945. The sole intervenor having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9751. Adulteration of strawberry puree. U. S. v. 275 Tins of Strawberry Purce. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15608. Sample No. 17829-H.)

**LIBEL FILED:** On or about March 23, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On February 20, 1945, by the City Fruit and Produce Co., from Detroit, Mich.

**PRODUCT:** 275 50-pound tins of strawberry puree at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy strawberries.

**DISPOSITION:** March 27, 1945. The City Fruit and Produce Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be destroyed. On March 1, 1946, the decree was amended to provide for the destruction of the entire lot.

**9752. Adulteration of frozen strawberry puree. U. S. v. 140 Barrels of Frozen Strawberry Puree. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 14121. Sample No. 75447-F.)

**LIBEL FILED:** October 24, 1944, Western District of New York.

**ALLEGED SHIPMENT:** On or about September 12, 1944, by the General Ice Cream Corporation, from Benton Harbor, Mich.

**PRODUCT:** 140 barrels of frozen strawberry puree at Buffalo, N. Y. Examination of this product showed the presence of mold.

**LABEL, IN PART:** "Packed by Eastern Paper & Box Co. Boston, Mass. Strawberry Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 20, 1945. The Eastern Paper & Box Co., Boston, Mass., having appeared as claimant, and the case having been transferred to the District of Massachusetts and consolidated with 2 other cases, judgment of condemnation was entered. The product was ordered released under bond, conditioned that the unfit portion be segregated and denatured or used in the distillation of alcohol, under the supervision of the Food and Drug Administration.

**9753. Adulteration of frozen strawberry puree. U. S. v. 69 Tierces of Frozen Strawberry Puree. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15058. Sample No. 88574-F.)

**LIBEL FILED:** January 15, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about September 16, 1944, by the Eastern Paper & Box Co., from Benton Harbor, Mich.



**PRODUCT:** 69 tierces, each containing 400 pounds, of frozen strawberry puree at Worcester, Mass.

**LABEL, IN PART:** "Strawberry Puree \* \* \* Eastern Paper & Box Co. Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 20, 1945. The Eastern Paper & Box Co. having appeared as claimant, and the case having been consolidated with 2 other cases, judgment of condemnation was entered. The product was ordered released under bond, conditioned that the unfit portion be segregated and denatured or used in the distillation of alcohol, under the supervision of the Food and Drug Administration.

**9754. Adulteration of frozen strawberry puree. U. S. v. 69 Barrels of Frozen Strawberry Puree. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15124. Sample No. 4408-H.)**

**LIBEL FILED:** January 30, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 19, 1944, by Abbott's Dairies, Inc., from Benton Harbor, Mich.

**PRODUCT:** 69 barrels of frozen strawberry puree at Philadelphia, Pa. Examination of the product showed the presence of mold.

**LABEL, IN PART:** "Strawberry Puree \* \* \* Packed by Eastern Paper & Box Co. Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 20, 1945. The Eastern Paper & Box Co. having appeared as claimant, and the case having been transferred to the District of Massachusetts and consolidated with 2 other cases, judgment of condemnation was entered. The product was ordered released under bond, conditioned that the unfit portion be segregated and denatured or used in the distillation of alcohol, under the supervision of the Food and Drug Administration.

**9755. Misbranding of frozen strawberries. U. S. v. 1,104 Cans of Frozen Strawberries. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17137. Sample No. 23037-H.)**

**LIBEL FILED:** August 15, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about May 25, 1945, by the Craddock Canning and Preserving Co., from Paducah, Ky.

**PRODUCT:** 1,104 30-pound cans of frozen strawberries at St. Louis, Mo. Examination showed the article to be short-weight.

**LABEL, IN PART:** "Craddock Strawberries 3-1 30 Lb. Net."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** September 17, 1945. The Delphi Frosted Foods Corporation having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency.

**9756. Adulteration and misbranding of wine vinegar. U. S. v. 9 Barrels of Wine Vinegar. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 17079. Sample No. 5959-H.)**

**LIBEL FILED:** July 31, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 7, 1944, by E. Barbero, from Union City, N. J.

**PRODUCT:** 9 barrels of wine vinegar at New York, N. Y. Analysis showed that the product contained distilled vinegar and coal-tar colors.

**LABEL, IN PART:** "Pure Wine Vinegar."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially colored mixture of wine vinegar and distilled vinegar had been substituted in whole or in part for pure wine vinegar; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), distilled vinegar had been mixed and packed with the article so as to reduce its quality

or strength, and artificial color had been mixed and packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the name "Pure Wine Vinegar" was false and misleading as applied to an artificially colored mixture of wine vinegar and distilled vinegar.

**DISPOSITION:** August 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

#### VEGETABLES AND VEGETABLE PRODUCTS

**9757. Adulteration of artichoke pulp. U. S. v. 397 Cases of Artichoke Pulp. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16697. Sample No. 29789-H.)**

**LIBEL FILED:** July 12, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about June 27, 1945, by the San Martin Canning Co., from San Martin, Calif.

**PRODUCT:** 397 cases, each containing 6 cans, of artichoke pulp at Boston, Mass. Examination showed that the article had undergone chemical decomposition.

**LABEL, IN PART:** (Portion of cans) "Pony Brand Artichoke Cream Pulp Contents 6 Pounds 4 Oz. Packed By Bottled Pure Juice Co., Campbell, Calif." The remainder of the cans were unlabeled.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 31, 1945. Musolino, LoConte Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Federal Security Agency.

**9758. Adulteration of dry lima beans. U. S. v. 31 Bags of Dry Lima Beans. Default decree of condemnation. Product ordered delivered to a State institution, to be used for animal feed. (F. D. C. No. 16927. Sample No. 24379-H.)**

**LIBEL FILED:** July 26, 1945, Middle District of Alabama.

**ALLEGED SHIPMENT:** On or about January 3, 1945, from Irvine, Calif.

**PRODUCT:** 31 100-pound bags of dry lima beans at Andalusia, Ala., in the possession of the Sessoms Grocery Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a State institution, to be converted into animal feed under the supervision of the United States marshal.

**9759. Adulteration of lupini beans. U. S. v. 5½ Cases of Lupini Beans. Default decree of condemnation and destruction. (F. D. C. No. 16696. Sample No. 7283-H.)**

**LIBEL FILED:** July 13, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 3, 1945, by the Saporito Oil Co., from Brooklyn, N. Y.

**PRODUCT:** 5½ cases, each containing 24 8-ounce jars, of lupini beans at Newark, N. J.

**LABEL, IN PART:** "Saporito Brand Lupini Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9760. Adulteration of pickled beets. U. S. v. 1,400 Cases of Pickled Beets. Default decree of condemnation and destruction.** (F. D. C. No. 16410. Sample No. 23971-H.)

**LIBEL FILED:** June 7, 1945, Middle District of Alabama.

**ALLEGED SHIPMENT:** On or about November 9, 1943, by the Mayfair Food Products Co., Chicago, Ill.

**PRODUCT:** 1,400 cases, each containing 12 1-pint jars, of pickled beets at Montgomery, Ala.

**LABEL, IN PART:** "Mayfair Set Pickled Beets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9761. Misbranding of canned corn. U. S. v. 1,070 Cases of Canned Corn. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15597. Sample No. 17329-H.)

**LIBEL FILED:** March 7, 1945, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about October 6, 1943, by the Wisconsin Canning Co., Sterling, Ill.

**PRODUCT:** 1,070 cases, each containing 24 1-pound, 4-ounce cans, of corn at Milwaukee, Wis. Examination showed that the product was not "extra standard," since it was overmature and had poor flavor.

**LABEL, IN PART:** "Worthmore Extra Standard Cream Style Golden Sweet Corn."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Extra Standard Cream Style Golden Sweet Corn," was false and misleading.

**DISPOSITION:** October 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of in compliance with the law. The Albert Wholesale Grocers having subsequently appeared as claimant and having moved that the decree be vacated, a decree was entered on May 16, 1946, permitting the release of the product under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9762. Misbranding of mushrooms. U. S. v. Armani and Filosi. Plea of nolo contendere. Fine, \$250.** (F. D. C. No. 16551. Sample Nos. 85128-F, 85216-F.)

**INFORMATION FILED:** October 11, 1945, Eastern District of Pennsylvania, against Armani and Filosi, a partnership, Toughkenamon, Pa.

**ALLEGED SHIPMENT:** On or about November 2 and 28, 1944, from Kennett Square, Pa., into the States of Maryland and New Jersey.

**LABEL, IN PART:** "3 Lb. Net Mushrooms."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the baskets contained less than the declared weight of 3 pounds.

**DISPOSITION:** December 4, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$125 on each count, a total fine of \$250.

**9763. Misbranding of mushrooms. U. S. v. Michael Francescon. Plea of nolo contendere. Fine, \$250.** (F. D. C. No. 16549. Sample Nos. 50997-F, 85130-F.)

**INFORMATION FILED:** September 25, 1945, Eastern District of Pennsylvania, against Michael Francescon, Avondale, Pa.

**ALLEGED SHIPMENT:** On or about November 8 and 29, 1944, from the State of Pennsylvania into the State of New York.

**LABEL, IN PART:** "Extra Fancy White 3 Lb. Net Mushrooms."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the baskets contained less than 3 pounds of mushrooms.

**DISPOSITION:** December 4, 1945. The defendant having previously entered a plea of nolo contendere, the court imposed a fine of \$125 on each count, a total fine of \$250.

**9764. Misbranding of mushrooms. U. S. v. Giroso and Giroso. Plea of nolo contendere. Fine, \$250.** (F. D. C. No. 16553. Sample Nos. 85217-F, 4064-H.)

**INFORMATION FILED:** October 30, 1945, Eastern District of Pennsylvania, against Giroso and Giroso, a partnership, Hockessin, Del.

**ALLEGED SHIPMENT:** On or about November 2, 1944, and March 27, 1945, from Kaolin, Pa., into the States of New Jersey and New York.

**LABEL, IN PART:** "3 Lb. Net Mushrooms."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article was in package form and failed to bear a label containing an accurate statement of the quantity of the contents, since the baskets contained less than 3 pounds of mushrooms.

**DISPOSITION:** November 29, 1945. A plea of nolo contendere having been filed on behalf of the defendant, the court imposed a fine of \$125 on each count, a total fine of \$250.

**9765. Misbranding of canned peas. U. S. v. 948 Cases and 925 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond to be relabeled.** (F. D. C. No. 11879. Sample Nos. 67012-F, 67013-F.)

**LIBEL FILED:** February 23, 1944, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about September 16, 1943, by the Kurer-Empson Co., from Longmont, Colo.

**PRODUCT:** 1,873 cases, each containing 24 1-pound, 4-ounce cans, of peas at Oklahoma City, Okla.

**LABEL, IN PART:** "Success Brand \* \* \* Sweet Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard because of high alcohol-insoluble solids, and less than 90 percent of the peas failed to meet the test for tenderness prescribed by the regulations.

**DISPOSITION:** March 25, 1945. The Kurer-Empson Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9766. Adulteration of pickled peppers. U. S. v. 718 Jars of Pickled Peppers. Default decree of condemnation. Product ordered delivered to a Federal institution for salvage of the jars.** (F. D. C. No. 17132. Sample Nos. 369-H, 370-H.)

**LIBEL FILED:** August 24, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about June 4 and 6, 1945, by the Leibowitz Pickle Products Co., from New York, N. Y.

**PRODUCT:** 718 1-gallon jars of pickled peppers at Jacksonville, Fla. Examination showed that the product was fermenting.

**LABEL, IN PART:** (Portion) "Leibo Brand Imported Style Peppers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, conditioned that the jars be salvaged and the contents destroyed.

**9767. Adulteration of pickles. U. S. v. 46 Barrels of Pickles. Decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 16447, 16448. Sample Nos. 21219-H, 21220-H.)

**LIBEL FILED:** On or about June 19, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of November 18 and 27, 1944, by Ira Smythe, from Henderson, Colo.

**PRODUCT:** 46 barrels of pickles at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 12, 1945. The W. B. Schneider Pickle and Vinegar Co., Kansas City, Mo., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portion was segregated and destroyed.



**9768. Adulteration of sweet mixed pickles. U. S. v. 97 Cases of Sweet Mixed Pickles. Default decree of condemnation and destruction. (F. D. C. No. 16856. Sample No. 29132-H.)**

**LIBEL FILED:** July 23, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 26, 1945, by the Metropolitan Pool Car Associates, from New York, N. Y.

**PRODUCT:** 97 cases, each containing 12 1-quart jars, of sweet mixed pickles at Marysville, Calif. Examination showed that the product was undergoing fermentation.

**LABEL, IN PART:** "Joy Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9769. Adulteration of canned spinach. U. S. v. 1,798 Cases of Canned Spinach. Default decree of condemnation and destruction. (F. D. C. No. 17089. Sample No. 3226-H.)**

**LIBEL FILED:** August 3, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about June 11, 1945, by the Meyer Canning Co., from Edinburg, Tex.

**PRODUCT:** 1,798 cases, each containing 24 1-pound, 2-ounce cans, of spinach at Baltimore, Md.

**LABEL, IN PART:** "Gold Inn Brand Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of sand.

**DISPOSITION:** September 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9770. Adulteration of frozen squash. U. S. v. 900 Cartons of Squash. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17147. Sample No. 14824-H.)**

**LIBEL FILED:** August 25, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 6, 1945, by the Sacramento Frosted Foods Co., from Sacramento, Calif.

**PRODUCT:** 900 30-pound cartons of frozen squash at Chicago, Ill. Examination showed that the product was sour and decomposed.

**LABEL, IN PART:** (Portion) "Calameda Brand Frozen California Banana Squash."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 17, 1945. The Sacramento Frosted Foods Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

#### **TOMATOES AND TOMATO PRODUCTS**

**9771. Adulteration of tomato catsup and tomato puree. U. S. v. Joseph S. Morgan and Ivan C. Morgan (Morgan Packing Co.). Plea of guilty. Fine, \$1,000. (F. D. C. No. 16541. Sample Nos. 61766-F, 68282-F, 68291-F, 68767-F, 68798-F, 90540-F.)**

**INFORMATION FILED:** October 26, 1945, Southern District of Indiana, against Joseph S. Morgan and Ivan C. Morgan, partners, trading as the Morgan Packing Co., Austin, Ind.

**ALLEGED SHIPMENT:** Between the approximate dates of September 20 and November 13, 1944, from the State of Indiana into the States of Alabama, Ohio, and Kentucky.

**LABEL, IN PART:** "Jackson Brand \* \* \* Tomato Catsup [or "Puree"]," or "Columbus Brand Tomato Catsup Packed By Columbus Packing Co. Columbus, Ind."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances by reason of the presence of decomposed tomato material.

**DISPOSITION:** December 21, 1945. Pleas of guilty having been entered by, or on behalf of, each defendant, the court imposed a fine of \$1,000.

**9772. Adulteration and misbranding of Catsup Style Sauce. U. S. v. 552 Cases of Catsup Style Sauce. Default decree of condemnation and destruction.** (F. D. C. No. 16437. Sample No. 18245-H.)

**LIBEL FILED:** June 14, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about January 24 and February 27, 1945, by the Quincy Laboratories, Inc., from Chicago, Ill.

**PRODUCT:** 552 cases, each containing 24 13-ounce bottles, of Catsup Style Sauce at Des Moines, Iowa. Analysis and factory inspection showed that the product contained about 30 percent tomato material (which is less than catsup contains), together with vinegar, onions, spices, sugar beet fiber, and benzoate of soda. The product was reddish in color and had the consistency, odor, and taste of tomato catsup, and it was packed in a typical catsup bottle.

**LABEL, IN PART:** "Catsup Style Sauce Contains Tomatoes, Vegetable Pulp, Vinegar, Onions, Sugar, Salt, Spices and Spice Flavorings, U. S. Certified Color and 1/10% Benzoate of Soda."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, tomato material, had been in whole or in part omitted from the article; Section 402 (b) (3), inferiority had been concealed by the use of artificial color; and, Section 402 (b) (4), fibrous material from sugar beet pulp and artificial color had been added to the article and mixed and packed with it so as to increase its bulk, reduce its quality and strength, and make it appear to be tomato catsup, which is better and of greater value than the article was.

Misbranding, Section 403 (g) (1), the product purported to be tomato catsup, for which a definition and standard of identity has been prescribed by the regulations, but it failed to conform to the definition and standard for that product.

**DISPOSITION:** December 28, 1945. The Quincy Laboratories, Inc., having been permitted by the court to withdraw their answer to the libel, judgment of condemnation was entered and the product was ordered destroyed.

**9773. Adulteration of tomato juice. U. S. v. 234 Cases of Tomato Juice. Default decree of condemnation and destruction.** (F. D. C. No. 17039. Sample No. 10337-H.)

**LIBEL FILED:** August 14, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about June 7, 1945, by the Texas Valley Canning Co., from Harlingen, Tex.

**PRODUCT:** 234 cases, each containing 12 46-ounce cans, of tomato juice at Pittsburg, Pa. Examination showed that the product was undergoing active fermentation.

**LABEL, IN PART:** "Texas Valley Brand Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9774. Misbranding of tomato paste. U. S. v. 20 Cases of Tomato Paste. Default decree of forfeiture. Product ordered delivered to a charitable institution.** (F. D. C. No. 16953. Sample No. 27282-H.)

**LIBEL FILED:** August 4, 1945, District of Idaho.

**ALLEGED SHIPMENT:** On or about June 6, 1945, by the W. H. Bintz Co., from Salt Lake City, Utah.

**PRODUCT:** 20 cases, each containing 6 6-pound, 12-ounce cans, of tomato paste at Boise, Idaho.

**LABEL, IN PART:** "Pleasant Grove Brand Tomato Paste \* \* \* Pleasant Grove Canning Co. Pleasant Grove, Idaho."

**NATURE OF CHARGE:** Misbranding, Section 403 (g), the article failed to conform to the definition and standard of identity for tomato paste, since it contained less than 25 percent of salt-free tomato solids.



DISPOSITION: November 9, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered delivered to a charitable institution.

**9775. Adulteration of tomato puree. U. S. v. 1,010 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 17143. Sample No. 32349-H.)

LIBEL FILED: August 18, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about April 16, 1946, by the St. Mary's Packing Co., from Saint Marys, Ohio.

PRODUCT: 1,010 cases, each containing 6 cans, of tomato puree at Long Beach, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9776. Adulteration of tomato puree. U. S. v. 500 Cases of Tomato Puree. Default decree of condemnation and destruction.** (F. D. C. No. 16795. Sample No. 32424-H.)

LIBEL FILED: July 30, 1945, Eastern District of Washington.

ALLEGED SHIPMENT: On or about June 20, 1945, by the Santa Anita Packing Co., from Orange, Calif.

PRODUCT: 500 cases, each containing 6 No. 10 cans, of tomato puree.

LABEL, IN PART: "Violetta Brand Fancy Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9777. Adulteration of tomato sauce. U. S. v. 137 Cases of Tomato Sauce. Default decree of condemnation and destruction.** (F. D. C. No. 17156. Sample No. 23107-H.)

LIBEL FILED: August 20, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about June 11, 1945, by the Akin Products Co., from Mission, Tex.

PRODUCT: 137 cases, each containing 48 7½-ounce cans, of tomato sauce at St. Louis, Mo.

LABEL, IN PART: "Topmost Spanish Style Tomato Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## NUTS AND NUT PRODUCTS

**9778. Adulteration of mixed nuts. U. S. v. 12 Cartons of Mixed Nuts. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17646. Sample No. 7725-H.)

LIBEL FILED: On or about October 16, 1945, District of Connecticut.

ALLEGED SHIPMENT: On or about July 11, 1945, by I. Grob and Co., from New York, N. Y.

PRODUCT: 12 55-pound cartons of mixed nuts at Bridgeport, Conn.

LABEL, IN PART: "Groco Brand Quality Mixed Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, and insect excreta.

DISPOSITION: January 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as hog feed.

**9779. Adulteration of mixed sliced nuts. U. S. v. 8 Cartons of Mixed Sliced Nuts. Default decree of condemnation. Product ordered delivered to a public institution, for use as animal feed. (F. D. C. No. 17575. Sample No. 4274-H.)**

**LIBEL FILED:** September 18, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 25, 1945, by the National Almond Products Co., from Brooklyn, N. Y.

**PRODUCT:** 8 25-pound cartons of mixed sliced nuts at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** October 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as animal feed.

**9780. Adulteration of peanuts. U. S. v. 121 Bags and 443 Bags of Peanuts. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 17051, 19304. Sample Nos. 22707-H, 22711-H, 43601-H.)**

**LIBELS FILED:** August 17, 1945, and March 7, 1946, Eastern District of Illinois and Southern District of California.

**ALLEGED SHIPMENT:** On or about June 5, 1945, and January 23, 1946, by the Greenwood Products Co., from Graceville, Fla.

**PRODUCT:** 121 bags, each containing 115 pounds, of peanuts at Centralia, Ill., and 443 bags, each containing 113 pounds, of peanuts at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of (Centralia lot) a filthy substance by reason of the presence of larvae and insect-damaged peanuts and (Los Angeles lot) a decomposed substance by reason of the presence of moldy peanuts.

**DISPOSITION:** September 22, 1945, and March 25, 1946. The Hollywood Brands, Inc., Centralia, Ill., and the Jones Brokerage Co., Los Angeles, Calif., claimants for the respective lots, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond. The decrees provided that the Centralia lot be denatured for use as hog feed and that the Los Angeles lot be brought into compliance with the law, or used for peanut oil or animal feed. It was further provided that the Food and Drug Administration supervise the disposition of the peanuts.

**9781. Adulteration of peanuts. U. S. v. 119 Bags and 14 Bags of Peanuts. Default decrees of condemnation. Product ordered sold to the highest bidder, to be denatured. (F. D. C. Nos. 17694, 17695. Sample Nos. 23507-H, 23508-H.)**

**LIBELS FILED:** September 28, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about December 21, 1944, by the Boykins Peanut Co., from Boykins, Va.

**PRODUCT:** 133 bags of peanuts at St. Louis, Mo.

**LABEL, IN PART:** "Bo-Co Hand Picked Jumbo Virginia Peanuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested peanuts.

**DISPOSITION:** October 23 and November 1, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered sold, conditioned that it be denatured, as directed by the Federal Security Agency, so that it could not be used for human consumption.

**9782. Adulteration of peanuts. U. S. v. 17 Cases of Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 17528. Sample No. 38940-H.)**

**LIBEL FILED:** February 20, 1946, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about December 8, 1945, by the Carolina Nut Corporation, from Minneapolis, Minn.

**PRODUCT:** 17 cases, each containing 36 10-ounce bags, of peanuts at Oshkosh, Wis.

**LABEL, IN PART:** "Happies Super Salted Peanuts,"



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and moldy peanuts.

**DISPOSITION:** April 30, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9783. Adulteration of shelled peanuts. U. S. v. 327 Bags of Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17193. Sample No. 22720-H.)**

**LIBEL FILED:** August 23, 1945, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 1, 1945, by the Arlington Oil Mills, from Arlington, Ga.

**PRODUCT:** 327 120-pound bags of shelled peanuts at Ashley, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect excreta.

**DISPOSITION:** September 11, 1945. The Pan American Candy Co., Ashley, Ill., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for use as hog feed, under the supervision of the Food and Drug Administration.

**9784. Adulteration of shelled peanuts. U. S. v. 146 Bags of Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17331. Sample Nos. 3511-H, 3512-H.)**

**LIBEL FILED:** August 29, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about January 22, 1945, by the Suffolk Peanut Co., from Suffolk, Va.

**PRODUCT:** 146 bags of peanuts at Baltimore, Md.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, moths, larvae, and insect fragments.

**DISPOSITION:** October 3, 1945. The Tas-T-Nut Co., Baltimore, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the sorting of the good from the bad portion, under the supervision of the Food and Drug Administration, and for the sale of the rejected peanuts to an oil mill for crushing purposes.

**9785. Adulteration of shelled peanuts. U. S. v. 110 Bags of Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17326. Sample No. 3510-H.)**

**LIBEL FILED:** August 29, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about March 22, 1945, by the Edenton Peanut Co., from Edenton, N. C.

**PRODUCT:** 110 bags of shelled peanuts at Baltimore, Md.

**LABEL, IN PART:** "Medium Virginia Tea Party Brand Shelled Peanuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the article consisted in whole or in part of a filthy substance by reason of the presence of moths, pupae, and webbing.

**DISPOSITION:** September 7, 1945. The Tas-T-Nut Co., Baltimore, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be sold for processing into oil, under the supervision of the Food and Drug Administration.

**9786. Adulteration of shelled peanuts. U. S. v. 417 Bags of Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17706. Sample No. 23335-H.)**

**LIBEL FILED:** October 3, 1945, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 4, 1945, by the Lone Star Peanut Co., from Dallas, Texas.

**PRODUCT:** 417 120-pound bags of shelled Spanish peanuts at Ashley, Ill.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested, dirty, and decomposed peanuts.

**DISPOSITION:** February 4, 1946. The Pan American Candy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the cleaning and segregation of the fit portion and the destruction of the remainder, under the supervision of the Food and Drug Administration.

**9787. Adulteration of shelled Spanish peanuts. U. S. v. 4 Bags and 85 Bags of Shelled Spanish Peanuts. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 17050, 17302. Sample Nos. 786-H, 22706-H, 22710-H.)**

**LIBELS FILED:** August 17 and September 4, 1945, Eastern District of Illinois and Eastern District of North Carolina.

**ALLEGED SHIPMENT:** On or about May 11 and June 16, 1945, by the Ashburn Peanut Co., from Ashburn, Ga.

**PRODUCT:** 4 125-pound bags and 85 125-pound bags of shelled Spanish peanuts at Fayetteville, N. C., and Centralia, Ill., respectively.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect-damaged peanuts.

**DISPOSITION:** September 22 and November 21, 1945. The Hollywood Brands, Inc., Centralia, Ill., having appeared as claimant for the Illinois lot and having consented to the entry of a decree, and no claimant having appeared for the North Carolina lot, judgments of condemnation were entered. It was ordered that the North Carolina lot be destroyed and that the Illinois lot be released under bond to be denatured for use as animal feed, under the supervision of the Federal Security Agency.

**9788. Adulteration of shelled Spanish peanuts. U. S. v. 6 Bags of Spanish Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 17429. Sample No. 9447-H.)**

**LIBEL FILED:** September 6, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about October 25, 1944, by the Columbian Peanut Co., from Pelham, Ga.

**PRODUCT:** 6 100-pound bags of shelled Spanish peanuts at Rochester, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect-damaged peanuts.

**DISPOSITION:** October 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9789. Misbranding of peanut butter. U. S. v. 131 Cases of Peanut Butter. Default decree of condemnation. Product ordered delivered to public and charitable institutions. (F. D. C. No. 16782. Sample No. 28751-H.)**

**LIBEL FILED:** July 5, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about April 13, 1945, by the Sessions Co., Inc., from Enterprise, Ala.

**PRODUCT:** 131 cases, each containing 24 1-pound jars, of peanut butter at Seattle, Wash. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Net Wt. 1 Pound Sessions Brand Homogenized Peanut Butter."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** March 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to public and charitable institutions.

**9790. Adulteration of shelled pecans. U. S. v. 10 Cases of Shelled Pecans. Default decree of condemnation and destruction. (F. D. C. No. 17049. Sample No. 18264-H.)**

**LIBEL FILED:** August 18, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about April 9, 1945, by the Southern Pecan Shelling Co., from Chicago, Ill.



**PRODUCT:** 10 cases, each containing 50 pounds, of shelled pecans at Burlington, Iowa.

**LABEL, IN PART:** "Gulf Pecan Company Pecan Meats," or "S. T. Fish & Co. Pecans Pecos Nut Company."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, and insect-damaged pecan meats.

**DISPOSITION:** September 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9791. Adulteration of pecan halves. U. S. v. 48 Cases of Pecan Halves. Default decree of condemnation and destruction.** (F. D. C. No. 17130. Sample No. 4261-H.)

**LIBEL FILED:** August 20, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 9, 1945, by the Orangeburg Pecan Co., from Orangeburg, S. C.

**PRODUCT:** 41 cases, each containing 30 pounds, and 7 cases, each containing 60 pounds, of pecan halves at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of moths, weevils, larvae, and worm-damaged pecans.

**DISPOSITION:** September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9792. Adulteration of pecan pieces. U. S. v. 10 Boxes of Pecan Pieces. Default decree of condemnation and destruction.** (F. D. C. No. 17614. Sample No. 12302-H.)

**LIBEL FILED:** September 28, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 10, 1945, by the R. E. Funsten Company, from St. Louis, Mo.

**PRODUCT:** 10 30-pound boxes of shelled pecan pieces at Boston, Massachusetts. Examination showed the presence of rancid and decomposed pecan pieces.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9793. Adulteration of walnut meats. U. S. v. 96 Cartons and 18 Dozen Packages of Walnut Meats. Default decrees of condemnation and destruction.** (F. D. C. Nos. 17208, 17682. Sample Nos. 3514-H, 38601-H.)

**LIBELS FILED:** On or about August 31 and September 27, 1945, Eastern District of Illinois and Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about July 24 and August 4, 1945, by the Tas-T-Nut Co., from Baltimore, Md.

**PRODUCT:** 96 cartons, each containing 12 1½-ounce packages, of walnut meats at Kankakee, Ill., and 18 dozen 1½-ounce packages of the same product at Lansing, Mich.

**LABEL, IN PART:** "Tas-T-Nut."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of (both lots) a filthy substance by reason of the presence of insects, insect fragments, insect-infested nut meats, and (Lansing lot) a decomposed substance by reason of the presence of moldy nut meats; and, Section 402 (a) (4), (Kankakee lot) it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 6, 1945, and January 18, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9794. Adulteration of shelled walnuts. U. S. v. 23 Cartons of Shelled Walnuts. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15912. Sample No. 18976-H.)

**LIBEL FILED:** April 13, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about February 3, 1945, by the Davis Nut Shelling Co., Los Angeles, Calif.

**PRODUCT:** 23 25-pound cartons of shelled walnuts at Superior, Wis.

**LABEL, IN PART:** "Davis Pakt Shelled Walnuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and moldy walnuts.

**DISPOSITION:** June 6, 1945. The Davis Nut Shelling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by brushing, cleaning, and repicking under the supervision of the Food and Drug Administration.

**9795. Adulteration of shelled walnut pieces. U. S. v. 33 Cases of Shelled Walnut Pieces. Default decree of condemnation and destruction.** (F. D. C. No. 17116. Sample No. 4260-H.)

**LIBEL FILED:** August 13, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 7, 1945, by the Consolidated Nut Co., from Los Angeles, Calif.

**PRODUCT:** 33 25-pound cases of shelled walnut pieces at Philadelphia, Pa.

**LABEL, IN PART:** "Golden Bear Shelled California Walnuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested, rancid, and moldy walnut meats.

**DISPOSITION:** September 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### SPICES, FLAVORS, AND SEASONING MATERIALS

**9796. Adulteration of chili powder. U. S. v. C. B. Gentry Co. Plea of nolo contendere. Fine, \$200.** (F. D. C. No. 17791. Sample Nos. 73898-F, 73899-F.)

**INFORMATION FILED:** April 22, 1946, Southern District of California, against the C. B. Gentry Co., a partnership, Los Angeles, Calif.

**ALLEGED SHIPMENT:** On or about November 3, 1944, from the State of California into the State of New York.

**LABEL, IN PART:** "Gentry's Mexican [or "Special Mexican"] Chili Powder."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments.

**DISPOSITION:** May 6, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$100 on each of the 2 counts of the information.

**9797. Adulteration of chili powder. U. S. v. 20 Barrels of Chili Powder. Default decree of destruction.** (F. D. C. No. 16481. Sample Nos. 30967-H, 30968-H.)

**LIBEL FILED:** On or about June 22, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about April 27, 1945, by the C. B. Gentry Co., from Los Angeles, Calif.

**PRODUCT:** 15 225-pound barrels and 5 230-pound barrels of chili powder at Kansas City, Mo.

**LABEL, IN PART:** "Gentry's Special [or "Special F"] Mexican Chili Powder."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent air fragments and mold; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 12, 1945. No claimant having appeared, judgment was entered and the product was ordered destroyed.

**9798. Adulteration of chili peppers. U. S. v. 121 Cases of Chili Peppers. Tried to the court. Judgment of condemnation. Product ordered released under bond.** (F. D. C. No. 16784. Sample No. 28490-H.)

**LIBEL FILED:** July 7, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about May 10, 1945, by H. W. Little, from San Antonio, Tex.

**PRODUCT:** 125 25-pound cases of chili peppers at Seattle, Wash.



LABEL, IN PART: "Don Brand Chili Peppers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, beetles, larvae, and insect fragments.

DISPOSITION: On September 13, 1945, the Crescent Manufacturing Co. having appeared as claimant, the case was tried to the court. Judgment was entered condemning the product and ordering it destroyed. On January 7, 1946, the claimant having petitioned that the condemned goods be delivered to it, an order was entered modifying the decree to permit the release of the product under bond, conditioned that it be washed, cleaned, and dried under the supervision of the Federal Security Agency.

**9799. Adulteration of imitation white pepper. U. S. v. 1 Barrel of Imitation White Pepper. Default decree of condemnation and destruction. F. D. C. No. 17594. Sample No. 1407-H.)**

LIBEL FILED: September 25, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about July 3, 1945, by the Knickerbocker Mills Co., from New York, N. Y.

PRODUCT: 1 180-pound barrel of imitation white pepper at Atlanta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: November 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9800. Adulteration of Pan-American Sauce. U. S. v. 80 Cases of Pan-American Sauce (and 2 other seizure actions against Pan-American Sauce). Default decrees of condemnation and destruction. (F. D. C. Nos. 15829, 15848, 15864. Sample Nos. 18337-H, 18887-H, 23927-H.)**

LIBELS FILED: Between March 30 and April 5, 1945, District of South Dakota, Northern District of Alabama, and Western District of Wisconsin.

ALLEGED SHIPMENT: Between the approximate dates of December 4, 1944, and January 26, 1945, by the Finer Foods Packing Corporation, Terre Haute, Ind.

PRODUCT: Pan-American Sauce. 80 cases at Sioux Falls, S. Dak., 758 cases at Gadsden, Ala., and 279 cases at La Crosse, Wis. Each case contained 24 14-ounce bottles.

LABEL, IN PART: "Pan-American Sauce \* \* \* Tomato Pulp, Beets, Carrots, Celery, Cracker Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: Between April 30 and May 2, 1945, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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Beverages and beverage mate- rials	<sup>2</sup> 9601-9607	Cheese	<sup>3</sup> 9719, <sup>4</sup> 9720
Brandy, raisin	9607	Cheddar	9723, 9724
		curd	<sup>4</sup> 9720, 9725, 9726

<sup>1</sup> (9608) Permanent injunction issued. Contains findings of fact and conclusions of law.  
<sup>2</sup> (9601, 9798) Seizure contested.  
<sup>3</sup> (9719) Prosecution contested. Permanent injunction issued. Contains findings of fact and conclusions of law.  
<sup>4</sup> (9720) Prosecution contested. Permanent injunction issued.

	N. J. No.		N. J. No.
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<sup>1</sup> (9608) Permanent injunction issued. Contains findings of fact and conclusions of law.<sup>2</sup> (9601, 9798) Seizure contested.



## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

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<sup>1</sup> (9608) Permanent injunction issued. Contains findings of fact and conclusions of law.<sup>2</sup> (9601, 9798) Seizure contested.<sup>3</sup> (9719) Prosecution contested. Permanent injunction issued. Contains findings of fact and conclusions of law.

	N. J. No.		N. J. No.
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Consolidated Freight Forwarding		Faehndrich, Wm., Inc. :	
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<sup>1</sup> (9608) Permanent injunction issued. Contains findings of fact and conclusions of law.



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Heyd, C. G., & Co.:		Little, H. W.:	
butter -----	9709, 9716	chili peppers -----	<sup>2</sup> 9798
Higginsville Flour Mill. <i>See</i>		Loeb Dietetic Food Co., Inc.:	
Dixie Portland Flour Co.		noodles and spaghetti -----	9664
Holshouser Candy Co.:		Lone Star Peanut Co.:	
candy bars -----	9687	Spanish peanuts -----	9786
Horton Seafood Co.:		Mackenzie Candy Co.:	
frozen fish fillets -----	9735	candy -----	9684
Hudgins, J. Q.:		Majestic Flour Mill:	
bakery products -----	9609	enriched phosphated flour -----	9658
Hudson Duncan & Co.:		Mallory, W. B., & Sons Co.:	
Rytak -----	9617	corn meal -----	9620
Hunt Brothers Packing Co.:		Manley, Inc.:	
canned cherries -----	9742	popcorn -----	9671
Independent Fish Company:		Maryland Baking Co. <i>See</i> Sha-	
frozen fish fillets -----	9735	piro, Arthur.	
Inland Mills, Inc.:		Mayfair Food Products Co.:	
flour -----	9634	pickled beets -----	9760
International Milling Co.:		Mello-Sweets, Inc.:	
flour -----	9629	candy -----	9680
Interstate Bakers & Confection-		Meridian Grain & Elevator Co.:	
ers Supply Co.:		corn meal -----	9622
raisins -----	9750	Metropolitan Pool Car Associ-	
Jones, S. T.:		ates:	
flour -----	9627	sweet mixed pickles -----	9768
Kedney Warehouse:		Metropolitan Warehouse:	
rice -----	9677	popcorn -----	9674
Kenny, C. D., Co.:		Meyer Canning Co.:	
enriched plain flour -----	9658	canned spinach -----	9769
King Midas Flour Mills:		Middle States Cheese & Butter	
whole wheat flour, rye flour,		Mfg. Co.:	
and plain flour -----	9640	curd cheese -----	9726
Kirby, B. R.:		Mission Macaroni Co.:	
bread and rolls -----	9612	macaroni -----	9661
Knickerbocker Mills Co.:		Mitchell Produce Co.:	
imitation white pepper -----	9799	frozen whole eggs -----	9729
Kramer, J. R., Inc.:		Morgan, J. S., and I. C.:	
butter -----	9712	tomato catsup and tomato	
Kroger Grocery & Baking Co.:		puree -----	9771
enriched plain flour -----	9658	Morgan Packing Co. <i>See</i> Mor-	
Kuner-Empson Co.:		gan, J. S., and I. C.	
canned peas -----	9765	Morrison Milling Co.:	
Lakeside Butter Co.:		flour -----	9626
butter -----	9703		

<sup>2</sup> (9601, 9798) Seizure contested.

	N. J. No.		N. J. No.
National Almond Products Co.:		Rosenberg Brothers & Co.:	
mixed sliced nuts-----	9779	raisins-----	9748
New England Fillet Co., Inc.:		Ross Milling Co.:	
frozen whiting-----	9739	phosphated flour and self-rising	
North Pacific Sea Foods. <i>See</i>		flour-----	9645
Day, A. S.		Roth, G. A.:	
Northern Herring Co.:		butter-----	9707
spiced anchovies-----	9740	S. & W. Waldbaum, Inc.:	
Northern Illinois Cereal Co.:		butter-----	9713
rolled oats-----	9669	Sacramento Frosted Foods Co.:	
Northern Oats Co.:		frozen squash-----	9770
rolled oats-----	9670	St. Mary's Packing Co.:	
Orangeburg Pecan Co.:		tomato puree-----	9775
pecan halves-----	9791	St. Stephen Coop. Creamery:	
Orlando, Charles, Co.:		butter-----	9715
oil-cured olives-----	9745	St. Stephen Cooperative Cream-	
Panos, G. J., and P. J.:		ery Assoc.:	
bakery products-----	9610	butter-----	9709
Pecos Nut Co.:		San Martin Canning Co.:	
shelled pecans-----	9790	artichoke pulp-----	9757
Pender Daylight Bakeries:		Santa Anita Packing Co.:	
bread and rolls-----	9612	tomato puree-----	9776
Perplies Brewing Co.:		Saporito Oil Co.:	
beer-----	9602	lupini beans-----	9759
Pillsbury Flour Mills Co.:		Sauers Milling Co.:	
self-rising flour and phos-		self-rising flour and plain flour--	9652
phated flour-----	9651	Schreiber, L. D., & Co.:	
Pillsbury Mills, Inc.:		frozen whole eggs-----	9730
phosphated flour and plain		Schulze & Burch Biscuit Co.:	
flour-----	9646	saltine crackers-----	9618
Pleasant Grove Canning Co.:		Selby Poultry & Egg Co.:	
tomato paste-----	9774	frozen whole eggs-----	9727
Plymouth Creamery Co.:		Ser Baking Co.:	
butter-----	9706	rye knackebrod and rye hard-	
Pollman, Sam, Produce Co.:		tack-----	9616
frozen whole eggs-----	9728	Sessions Co., Inc.:	
Prentice Packing & Cold Storage		peanut butter-----	9789
Co.:		Sessoms Grocery Co.:	
apples-----	9741	dry lima beans-----	9758
Price's Creameries, Inc.:		Shapiro, Arthur:	
butter-----	9700	ice cream cones-----	9614
Pure Milk Corp.:		Shawnee Milling Co.:	
butter-----	9701	corn meal-----	9624
Quincy Laboratories, Inc.:		flour-----	9636
Catsup Style Sauce-----	9772	Short, J. R., Milling Co.:	
Quitmeyer, H. H.:		corn flour-----	9638
cake-----	9611	Silberman, S. S.:	
Rainier Brewing Co.:		cheese and cheese products-----*	9719
white corn grits-----	9666	Silberman, Sam. <i>See</i> Silberman,	
Ralston-Purina Co., Ry-Krisp		S. S.	
Div.:		Smythe, Ira:	
bread and wafers-----	9613	pickles-----	9767
Ravarino & Freschi, Inc.:		Southern Maid Donut Co.:	
egg noodles-----	9663	doughnut flour-----	9639
Re LeCandy, Inc.:		Southern Pecan Shelling Co.:	
candy-----	9686	shelled pecans-----	9790
Reno Creamery Co.:		Spring Green Creamery & Cheese	
butter-----	9699	Industry, Inc.:	
Robinson, J. B.:		cheese spread-----	9722
cocoa and cocoa substitute----	9695	Staley Milling Co.:	
Robinson, J. C., Seed Co.:		corn meal-----	9619
popcorn-----	9672		

\* (9719) Prosecution contested. Permanent injunction issued. Contains findings of fact and conclusions of law.



	N. J. No.		N. J. No.
Standard Butter & Egg Co.:		Waldbaum, S. & W., Inc.:	
butter-----	9706	butter-----	9713
State Center Warehouse & Cold		Walter Williams Candy Co.:	
Storage Co.:		candy-----	9683
flour-----	9632	Washburn Crosby:	
Suffolk Peanut Co.:		rye flour-----	9655
shelled peanuts-----	9784	Wellington Creamery:	
Sun Maid Raisin Growers of Cali-		butter-----	9696
fornia:		West Coast Growers & Packers:	
raisins-----	9749	raisins-----	9747
Superior Packing Co.:		Western Frozen Egg Corp.:	
grape juice-----	9603	frozen whole eggs-----	9728
Tas-T-Nut Co.:		Williams, L. W. <i>See</i> Williams,	
walnut meats-----	9793	Leo.	
Texas Valley Canning Co.:		Williams, Leo:	
tomato juice-----	9773	cheese and cheese products-----	<sup>4</sup> 9720
Tip Top Bakery. <i>See</i> Panos, G. J.,		Williams, Walter, Candy Co.:	
and P. J.		candy-----	9683
Toomey's Mills:		Wilson, J. S.:	
flapjack flour-----	9657	flour-----	9635
Towner Creamery. <i>See</i> Haman,		Wilson & Co.:	
J. R.		Cheddar cheese-----	9723
Twin Rivers Co., Inc.:		Wilson Mercantile Co.:	
butter-----	9713	popcorn-----	9673
United Creameries Service:		Wilson Poultry & Egg Co.:	
butter-----	9713	frozen whole eggs-----	9729
Valier & Spies Milling Co.:		Wisconsin Canning Co.:	
plain flour and rye flour-----	9653	canned corn-----	9761
Valley Mills:		Wyatt, J. W., & Co., Inc.:	
plain flour and self-rising flour-----	9650	flour-----	9633
Vendors Consolidating Co., Inc.:		Yukon Mill & Grain Co.:	
candy-----	9681	plain flour and self-rising flour-----	9649
Viviano, V., & Bros. Macaroni		Yur Favorit Cake Co.:	
Mfg. Co., Inc.:		cake-----	9611
macaroni products-----	9660		

<sup>4</sup> (9720) Prosecution contested. Permanent injunction issued.

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,  
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

9801-10000

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., May 29, 1947.

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BEVERAGES AND BEVERAGE MATERIALS

**9801. Adulteration of coffee. U. S. v. 31 Cases of Coffee. Default decree of destruction.** (F. D. C. No. 19835. Sample No. 59859-H.)

**LIBEL FILED:** May 10, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 18 and February 28, 1946, by the Dilworth Co., from Latrobe, Pa.

**PRODUCT:** 31 cases, each containing 24 1-pound jars, of coffee at Steubenville, Ohio.

**LABEL, IN PART:** "Benson's Supreme Blend Coffee."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 19, 1946. No claimant having appeared, judgment was entered and the product was ordered destroyed.

**9802. Adulteration of green coffee. U. S. v. 60 Bags of Green Coffee. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19796. Sample No. 16091-H.)

**LIBEL FILED:** April 30, 1946, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about November 3, 1942, by the J. Aron Co., Inc., from New York, N. Y.



PRODUCT: 60 100-pound bags of green coffee at Detroit, Mich.

LABEL, IN PART: "Bamboli \* \* \* Product of Belgian Congo."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of insect infestation.

DISPOSITION: September 14, 1946. J. Aron & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for salvage under the supervision of the Federal Security Agency. The good portion was to be sold for human consumption, and the unfit portion was to be sold for nonfood purposes.

**9803. Adulteration of beverage concentrate. U. S. v. 1 Keg of Beverage Concentrate. Default decree of condemnation and destruction. (F. D. C. No. 19781. Sample No. 38649-H.)**

LIBEL FILED: April 25, 1946, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about October 4, 1945, by the King Kola Manufacturing Co., from Granite City, Ill.

PRODUCT: 1 10-gallon keg of beverage concentrate at Cudahy, Wis.

LABEL, IN PART: "A concentrate containing water, pure cane sugar, extract of Kola Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing saccharin had been substituted in whole or in part for a beverage concentrate containing cane sugar; and, Section 402 (b) (4), saccharin had been mixed and packed with the article so as to reduce its quality and strength and make it appear better and of greater value than it was.

DISPOSITION: June 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9804. Adulteration and misbranding of beverage sirups. U. S. v. 190 Bottles of Fruit-Flavored Beverage Syrups. Default decree of condemnation and destruction. (F. D. C. No. 20563. Sample Nos. 56709-H to 56713-H.)**

LIBEL FILED: July 29, 1946, District of Massachusetts.

ALLEGED SHIPMENT: On or about March 2, 1945, by the Reco Sales Co., from New York, N. Y.

PRODUCT: 69 pint bottles of imitation orange sirup, 15 pint bottles of lemon and lime sirup, 44 pint bottles of raspberry sirup, 6 pint bottles of strawberry sirup, and 56 pint bottles of punch sirup. The imitation orange, lemon and lime, and raspberry sirups were fermented. The raspberry, strawberry, and punch sirups were composed of sugar and water, artificially flavored and colored to simulate fruit sirups.

LABEL, IN PART: "Reco imit. Orange Syrup," "Reco Lemon and Lime [or "Raspberry," "Strawberry," or "Punch"] Syrup." The labels of the raspberry, strawberry, and punch sirups contained the statements, "Contains: Pure cane sugar syrup, flavoring extract, fruit acid and food color. Preserved with 1/10 of 1% benzoate of soda."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the orange, lemon and lime, and raspberry sirups consisted in whole or in part of decomposed substances; and, Section 402 (b) (4), artificial flavoring and coloring had been added to and mixed and packed with the raspberry, strawberry, and punch sirups so as to make them appear better and of greater value than they were.

Misbranding (raspberry, strawberry, and punch sirups), Section 403 (a), the label designations, "Raspberry Syrup," "Strawberry Syrup," and "Punch Syrup," respectively, were false and misleading; Section 403 (c), the sirups were imitations of other foods, and their labels failed to bear, in type of uniform size and prominence, the word "imitation," and, immediately thereafter, the name of the food imitated; and, Section 403 (k), they contained artificial flavoring and coloring, and failed to bear labeling stating that fact.

DISPOSITION: August 27, 1946. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**9805. Adulteration of grape concentrate. U. S. v. 4 Gallons of Grape Concentrate. Default decree of condemnation and destruction. (F. D. C. No. 19954. Sample No. 53119-H.)**

LIBEL FILED: May 28, 1946, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about April 19, 1946, by the Frigie Corporation of America, from Chicago, Ill.

PRODUCT: 4 1-gallon jugs of grape concentrate at Newport, Ky.



**LABEL, IN PART:** "Frolipop Concentrate Imitation Grape."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food, and it could have been avoided by good manufacturing practice.

**DISPOSITION:** June 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9806. Adulteration of malt sirup. U. S. v. 68 Drums and 35 Drums of Malt Syrup. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20584. Sample Nos. 48898-H, 48955-H.)

**LIBEL FILED:** August 7, 1946, District of Connecticut.

**ALLEGED SHIPMENT:** On or about July 22 and 25, 1946, by Sandner and Co., from Birmingham, Ala.

**PRODUCT:** 68 55-gallon drums of malt sirup and 35 drums, each containing approximately 650 pounds, of the same product at Hartford, Conn. Analysis showed that the product was fermenting.

**LABEL, IN PART:** (68 drums) "Mor-Sweet Syrup Maltose Type New Haven Syrup Company New Haven, Conn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 26, 1946. The New Haven Syrup Company, Inc., claimant for the 68 drums, and the Largay Brewing Company, Inc., claimant for the remainder, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for industrial use, under the supervision of the Food and Drug Administration.

**9807. Misbranding of High C Preservatives. U. S. v. 5 Jugs and 8 Bottles of High C Preservatives. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19667, 19918. Sample Nos. 9148-H, 53004-H.)

**LIBELS FILED:** April 11 and May 15, 1946, District of New Jersey and Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 6 and September 5, 1945, by the Sen Sen Extract Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** 5 1-gallon jugs at Bayonne, N. J., and 8 1-gallon bottles at Cleveland, Ohio, of High C Preservatives. Examination showed that the product was an aqueous solution containing about 13 grams of monochloroacetic acid per 100 cc.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the labeling of the article was misleading since it failed to reveal the material fact that the product contained about 13 grams of monochloroacetic acid per 100 cc., a poisonous and deleterious substance which rendered the article unwholesome and unsuitable for use as a component of beverages used by man; Section 403 (e) (1), it failed to bear the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (i) (2), it failed to bear the common or usual name of each ingredient.

**DISPOSITION:** May 20 and June 13, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS

**9808. Adulteration of bakery products. U. S. v. Zeno Bakery Corporation. Plea of guilty. Fine, \$200.** (F. D. C. No. 20146. Sample Nos. 12369-H, 12373-H, 12375-H to 12378-H, incl.)

**INFORMATION FILED:** June 22, 1946, District of Vermont, against the Zeno Bakery Corporation, Bellows Falls, Vt.

**ALLEGED SHIPMENT:** On or about November 16, 1945, from the State of Vermont into the State of New Hampshire.

**LABEL, IN PART:** "Zeno's \* \* \* Pies [or "Fig Cookies," "Jelly Roll," "Dinner Rolls," "Whole Wheat Bread," or "Enriched Bread"]."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of fragments of flies, rodent hair fragments, insect fragments, an insect, an ant, larvae, larva heads, larva head capsules, a weevil head, and mites; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** July 26, 1946. A plea of guilty having been entered on behalf of the defendant, a fine of \$200 was imposed.

**9809. Adulteration of bread. U. S. v. Citizens Baking Co., Inc. Plea of guilty. Fine, \$500.** (F. D. C. No. 20133. Sample No. 10741-H.)

**INFORMATION FILED:** June 10, 1946, Western District of New York, against the Citizens Baking Co., Inc., Jamestown, N. Y.

**ALLEGED SHIPMENT:** On or about February 11, 1946, from the State of New York into the State of Pennsylvania.

**LABEL, IN PART:** "Butter Top Enriched Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 17, 1946. A plea of guilty having been entered on behalf of the defendant, a fine of \$500 was imposed.

**9810. Adulteration and misbranding of cheese crackers. U. S. v. 36 Cartons and 14 Cartons of Cheese Crackers. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 20317. Sample Nos. 57150-H, 57151-H.)

**LIBEL FILED:** July 3, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** Between the approximate dates of April 11 and May 17, 1946, by Frank Burns, Inc., from Philadelphia, Pa.

**PRODUCT:** 50 cartons, each containing 24 packages, of cheese crackers at Wollaston, Mass. Analysis showed that the product contained an insignificant amount of cheese.

**LABEL, IN PART:** "Frank Burns Cheese Squares [or "Toasted Cheese"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, cheese, had been in part omitted; and, Section 402 (b) (4), artificial coloring had been added to the product so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the label statements, "Cheese Squares" and "Toasted Cheese," were false and misleading.

**DISPOSITION:** August 27, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

#### CORN MEAL

**9811. Adulteration of corn meal. U. S. v. Paul L. Fetherston (The Paoli Mill). Plea of nolo contendere. Fine, \$300.** (F. D. C. No. 20463. Sample Nos. 18120-H to 18123-H, incl.)

**INFORMATION FILED:** July 29, 1946, Western District of Wisconsin, against Paul L. Fetherston, trading as the Paoli Mill, at Paoli, Wis.

**ALLEGED SHIPMENT:** On or about April 19 and 27 and May 7, 1946, from the State of Wisconsin into the State of Illinois.

**LABEL, IN PART:** "Special White [or "Yellow"] Corn Meal," or "Special Yellow Corn Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, mites, insects, Mediterranean moth scales, rodent hair fragments, rodent excreta fragments, fragments resembling rodent excreta, and cat hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 16, 1946, A plea of nolo contendere having been entered, the defendant was fined \$300.

**9812. Adulteration of corn meal and self-rising pancake flour. U. S. v. Doud Milling Co. and Herbert L. Fitch. Pleas of guilty. Corporation fined \$150 and costs; individual fined \$100. (F. D. C. No. 20450. Sample Nos. 21580-H, 21582-H.)**

**INFORMATION FILED:** July 10, 1946, Northern District of Iowa, against the Doud Milling Co., a corporation, Denison, Iowa, and Herbert L. Fitch, secretary-treasurer.

**ALLEGED SHIPMENT:** On or about January 14 and 24, 1946, from the State of Iowa into the State of Nebraska.

**LABEL, IN PART:** "Fidelity Yellow Corn Meal," or "Enriched Fidelity \* \* \* Whole Wheat Self Rising Pancake Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent excreta.

**DISPOSITION:** July 30, 1946. Pleas of guilty having been entered, the corporation was fined \$150, plus costs, and the individual defendant was fined \$100.

**9813. Adulteration of corn meal. U. S. v. Eagle Milling Co. Plea of guilty. Fine, \$500. (F. D. C. No. 20143. Sample Nos. 23879-H, 24768-H.)**

**INFORMATION FILED:** July 12, 1946, Western District of Oklahoma, against the Eagle Milling Co., a corporation, Edmond, Okla.

**ALLEGED SHIPMENT:** On or about August 28 and November 24, 1945, from the State of Oklahoma into the State of Texas.

**LABEL, IN PART:** "Finest Milled Rodkey's White Cream Corn Meal The Rodkey Millers Eagle Milling Co., Inc. Edmond, Okla."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent pellet fragments with hairs, whole insects, and insect parts; and, Section 402 (a) (4), the shipment of November 24 had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 31, 1946. A plea of guilty having been entered, the court imposed a fine of \$250 on each of the 2 counts of the information.

**9814. Adulteration of corn meal. U. S. v. Winchester Milling Co. Plea of guilty. Fine, \$250 and costs. (F. D. C. No. 20132. Sample No. 14202-H.)**

**INFORMATION FILED:** June 4, 1946, Eastern District of Kentucky, against the Winchester Milling Co., a corporation, Winchester, Ky.

**ALLEGED SHIPMENT:** On or about August 21, 1945, from the State of Kentucky into the State of Ohio.

**LABEL, IN PART:** "Old Kentucky Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** August 16, 1946. A plea of guilty having been entered, the court imposed a fine of \$250, plus costs.

**9815. Adulteration of corn meal. U. S. v. 100 Bags of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 19994. Sample No. 48878-H.)**

**LIBEL FILED:** May 27, 1946, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about March 16, 1946, by Curley Norris, Altoona, Ala.

**PRODUCT:** 100 12-pound bags of corn meal at Houston, Tex.

**LABEL, IN PART:** "Water Ground Corn Meal \* \* \* Unbolted."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

**DISPOSITION:** July 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9816. Adulteration of corn meal. U. S. v. 18 Bales of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 20264. Sample No. 54527-H.)**

**LIBEL FILED:** On or about June 27, 1946, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about May 3, 1946, by C. D. Kenny Division, from Augusta, Ga.



**PRODUCT:** 18 bales, each containing 5 5-pound bags, of corn meal at Ellenton, S. C.

**LABEL, IN PART:** "Fine Water Ground Corn Meal \* \* \* Manufactured By T. B. Kelly Louisville, Georgia."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments.

**DISPOSITION:** July 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9817. Adulteration of corn meal, soy flour, and soy grits. U. S. v. 22 Bags of Corn Meal, 14 Bags of Soy Flour, and 4 Bags of Soy Grits. Default decree of condemnation and destruction.** (F. D. C. No. 19813. Sample Nos. 9932-H to 9934-H, incl.)

**LIBEL FILED:** May 2, 1946, Western District of New York.

**ALLEGED SHIPMENT:** Between the approximate dates of July 26 and December 14, 1945, from Chicago and Decatur, Ill.

**PRODUCT:** 22 100-pound bags of corn meal, 14 100-pound bags of soy flour, and 4 100-pound bags of soy grits at Rochester, N. Y., in the possession of the B R & P Warehouse. The products were stored under insanitary conditions after shipment. The bags were rodent-gnawed, and the products had been contaminated by rodents.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of rodent contamination; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** June 13, 1946. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

#### FLOUR\*

**Nos. 9818 to 9823** report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination is known, that fact is stated in the notice of judgment.) The flour reported in No. 9824 failed to meet the standard for enriched flour.

**9818. Adulteration of phosphated flour. U. S. v. St. Mary's Mill Co. Plea of nolo contendere. Fine, \$500.** (F. D. C. No. 20127. Sample Nos. 22207-H to 22211-H, incl.)

**INFORMATION FILED:** May 31, 1946, Eastern District of Missouri, against the St. Mary's Mill Co., a corporation, St. Mary's, Mo.

**ALLEGED SHIPMENT:** On or about October 20 and 30, 1945, from the State of Missouri into the State of Arkansas.

**LABEL, IN PART:** "Bleached Phosphated Flour Enriched," or "Tokay Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect parts, insect fragments, a mite, and a rodent hair fragment; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 25, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$250 on each of the 2 counts of the information.

**9819. Adulteration of flour. U. S. v. 437 Bags of Flour. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19845. Sample No. 53009-H.)

**LIBEL FILED:** May 10, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 13, 1945, from Louisville, Ky.

**PRODUCT:** 437 100-pound bags of flour at Sandusky, Ohio, in the possession of Hoenshel Fine Foods, Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets, urine, and insects.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

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\*See also Nos. 9812, 9817.



**DISPOSITION:** May 31, 1946. Hoenshel Fine Foods, Inc., claimant, having admitted that a portion of the product was adulterated, judgment of condemnation was entered and the product was ordered released under bond, conditioned upon the segregation of the fit portion from the unfit portion and the disposal of both in compliance with the law, under the supervision of the Food and Drug Administration.

**9820. Adulteration of flour. U. S. v. 198 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 19705. Sample No. 54509-H.)

**LIBEL FILED:** On or about May 17, 1946, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about February 14, 1946, from Evansville, Ind.

**PRODUCT:** 198 100-pound bags of flour at Florence, S. C., in the possession of the American Bakeries Co. The product was stored under insanitary conditions after shipment. Urine stains were observed on the bags, and the article was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 13, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9821. Adulteration of plain flour, whole wheat flour, and pastry flour. U. S. v. 310, 600, 380, and 195 Bags of Flour. Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 20346, 20347. Sample Nos. 58961-H to 58964-H, incl.)

**LIBELS FILED:** June 17, 1946, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about May 15, 21, and 22, 1946, by the Idaho Boyd-Conlee Co., from Bonners Ferry, Idaho.

**PRODUCT:** 690 50-pound bags and 600 100-pound bags of flour at Spokane, Wash.

**LABEL, IN PART:** (Portions) "Enriched Hard Wheat Flour," "Red Cross Whole Wheat Flour," "Red Quill Fancy Hard Wheat Flour," "Carnation Bleached Pastry Flour," or "Extra Fancy Red White & Blue Cake Flour." The remainder of the flour was unlabeled.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent excreta and urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** July 2, 1946. The Idaho Boyd-Conlee Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered. The products were ordered released under bond, conditioned that any portion approved by the Food and Drug Administration as fit for human consumption be disposed of for such use, and that the remainder be converted into stock feed.

**9822. Adulteration of soy flour. U. S. v. 10 Bags of Soya Flour. Default decree of condemnation and destruction.** (F. D. C. No. 19864. Sample No. 10768-H.)

**LIBEL FILED:** May 9, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about November 27, 1945, by the Stein Hall Co., Inc., from Decatur, Ill.

**PRODUCT:** 10 100-pound bags of soy flour at Rochester, N. Y.

**LABEL, IN PART:** "Hall-Mark Lo-Fat Soya Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent hairs.

**DISPOSITION:** June 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9823. Adulteration of whole wheat flour. U. S. v. 36 Sacks of Whole Wheat Flour. Default decree of condemnation. Product ordered denatured, for use as hog feed.** (F. D. C. No. 19818. Sample No. 43623-H.)

**LIBEL FILED:** May 8, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about February 28, 1946, from Great Falls, Mont.

**PRODUCT:** 36 100-pound bags of whole wheat flour at Los Angeles, Calif., in the possession of the Rath Transportation Co. The product was stored under in-



sanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained rodent excreta and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), the product had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the Rath Transportation Co. to be denatured and converted into hog feed, under the supervision of the Food and Drug Administration.

**9824. Adulteration and misbranding of enriched flour. U. S. v. 400 Bags of Enriched Flour. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 19710. Sample No. 3695-H.)**

**LIBEL FILED:** April 29, 1946, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about December 15, 1945, by the Lexington Mill and Elevator Co., Lexington, Nebr.

**PRODUCT:** 400 50-pound bags of enriched flour at Fredericksburg, Va.

**LABEL, IN PART:** "Bleached Enriched Flour \* \* \* Lexington Cream."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B<sub>1</sub>) and iron, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched flour, since it contained less than the minimum of 2 milligrams of thiamine and 13 milligrams of iron required by the standard.

**DISPOSITION:** July 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

#### MACARONI AND NOODLE PRODUCTS

**9825. Adulteration of macaroni. U. S. v. Mission Macaroni Co., Inc. Plea of nolo contendere. Fine, \$2,000. (F. D. C. No. 16611. Sample Nos. 28758-H to 28762-H, incl.)**

**INFORMATION FILED:** December 29, 1945, Western District of Washington, against the Mission Macaroni Co., Inc., Seattle, Wash.

**ALLEGED SHIPMENT:** On or about July 19, 1945, from the State of Washington into the States of Idaho and Oregon.

**LABEL, IN PART:** "Mission Brand Salad [or "Elbow"] Macaroni," or "Best Bet Elbow Macaroni."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worm and insect fragments, rat or mouse hairs, and a cat hair; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 16, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$400 on each of the five counts of the information.

**9826. Adulteration of noodle dinner with chicken. U. S. v. 36 Cases of Noodle Dinner with Chicken (and 2 other seizure actions against noodle dinner with chicken). Default decrees of condemnation and destruction. (F. D. C. Nos. 20324 to 20326, incl. Sample Nos. 52943-H, 59878-H, 59879-H.)**

**LIBELS FILED:** June 12, 13, and 14, 1946, Western District of Pennsylvania and Southern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of February 2 and March 14, 1946, by the American Poultry Co., Detroit, Mich.

**PRODUCT:** Noodle dinner with chicken. 36 cases at Dayton, Ohio, 7 cases at Steubenville, Ohio, and 15 cases at Pittsburgh, Pa. Each case contained 24 1-pound jars of the product.

**LABEL, IN PART:** "Tested and Approved Noodle Dinner with Chicken."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.



**DISPOSITION:** Between June 25 and July 25, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9827. Adulteration of spaghetti and macaroni. U. S. v. 182 Cases of Spaghetti and 182 Cases of Macaroni. Default decree of forfeiture. Product ordered delivered to a public institution. (F. D. C. No. 20024. Sample Nos. 50971-H, 50972-H.)**

**LIBEL FILED:** May 22, 1946, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about April 16, 1946, by Galioto Brothers & Co., Chicago, Ill.

**PRODUCT:** 182 cases, each containing 12 cartons, of spaghetti and 182 cases, each containing 12 cartons, of macaroni at Marshfield, Wis.

**LABEL, IN PART:** (Cartons) "Italian Dinner Brand \* \* \* 2 Lbs. Net Wt."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** August 1, 1946. No claimant having appeared, judgment of forfeiture was entered and the products were ordered delivered to a public institution, for use as chicken feed.

**9828. Adulteration and misbranding of spaghetti dinner. U. S. v. 249 Cases of Spaghetti Dinner. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 20269. Sample No. 65219-H.)**

**LIBEL FILED:** June 17, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 2, 1946, by Roselli's Pure Food, Inc., from Merchantville, N. J.

**PRODUCT:** 249 cases, each containing 12 8-ounce packages, of spaghetti at Philadelphia, Pa. The package contained a bottle of sauce, a package of spaghetti, and a jar of a grated cheese product. Examination disclosed that the cheese product contained approximately 21 percent lactose, which indicated the presence of a milk product other than cheese.

**LABEL, IN PART:** "Penn Treaty \* \* \* Italian Style Spaghetti Dinner Contains \* \* \* 1/2 oz. Grated Cheese \* \* \* Distributed by Quaker City Wholesale Grocery Co. Inc. Philadelphia, Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese.

Misbranding, Section 403 (a), the label statement "Grated Cheese" was false and misleading.

**DISPOSITION:** June 11, 1946. Roselli's Pure Food, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration. On August 5, 1946, the decree was amended to provide that the cheese product in the package be destroyed and replaced with grated cheese.

**9829. Adulteration and misbranding of spaghetti dinner. U. S. v. 14 Cases and 22 Cases of Spaghetti Dinner. Default decrees of condemnation. Product ordered delivered to charitable institutions. (F. D. C. Nos. 20511, 20512. Sample Nos. 65027-H, 65525-H.)**

**LIBELS FILED:** On or about July 16, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about June 3 and 7, 1946, by the Philadelphia Macaroni Manufacturing Co., from Philadelphia, Pa.

**PRODUCT:** Spaghetti dinner. 14 cases at Camden, N. J., and 22 cases at Vineland, N. J. Each case contained 12 packages of the product. The packages contained spaghetti, a bottle of sauce, and a shaker-type bottle of a grated cheese product. Examination disclosed that the cheese product contained approximately 20 percent lactose, which indicated the presence of a milk product other than cheese.

**LABEL, IN PART:** "Italian Spaghetti Dinner King Midas \* \* \* 1/2 Oz. Grated Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese.

Misbranding, Section 403 (a), the label statements, "Grated Cheese" and



"Grated Roman Cheese," were false and misleading since the article contained a milk product other than cheese.

**DISPOSITION:** August 9, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to charitable institutions after destruction of the labels under the direction of the Food and Drug Administration.

**9830. Adulteration and misbranding of canned spaghetti with mushroom sauce. U. S. v. 85 Cases of Spaghetti with Mushroom Sauce. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19823. Sample No. 37462-H.)**

**LIBEL FILED:** May 10, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about December 17, 1945, by the Three Ribbons Packing Co., from Mountain View, Calif.

**PRODUCT:** 85 cases, each containing 24 1-pound jars, of spaghetti with mushroom sauce at Seattle, Wash.

**LABEL, IN PART:** "3 Ribbons Spaghetti With Mushroom Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, mushrooms, had been omitted from the product.

Misbranding, Section 403 (a), the label designation, "Spaghetti with Mushroom Sauce," was false and misleading since the product contained no detectable amount of mushrooms.

**DISPOSITION:** August 9, 1946. The Three Ribbons Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9831. Misbranding of spaghetti and noodles. U. S. v. 48 Packages of Spaghetti and 42 Packages of Noodles. Default decree of condemnation. Product ordered delivered to a charitable organization. (F. D. C. No. 19666. Sample Nos. 8986-H, 8987-H.)**

**LIBEL FILED:** April 11, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 5, 1946, by the Dietetic Food Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** 48 3-ounce packages of spaghetti and 42 3-ounce packages of noodles at Oradell, N. J.

**LABEL, IN PART:** "Dia-Mel Special Dietetic Product Gluten Spaghetti [or "Noodles"]."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the containers of the articles were so filled as to be misleading since the spaghetti occupied on an average only about 30 percent of the volume of the carton, and the noodles occupied on an average only about 43 percent of the volume of the carton.

**DISPOSITION:** June 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable organization.

#### MISCELLANEOUS CEREAL PRODUCTS

**9832. Adulteration of Cerol (precooked cereal). U. S. v. 41 Cases of Cerol. Default decree of condemnation and destruction. (F. D. C. No. 20506. Sample No. 5459-H.)**

**LIBEL FILED:** July 10, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 16, 1946, by H. H. Clapp, Inc., from Rochester, N. Y.

**PRODUCT:** 41 cases, each containing 24 8-ounces packages, of Cerol at Philadelphia, Pa.

**LABEL, IN PART:** "Cerol A Pre-Cooked Cereal for Infants and Children With Papaya Fruit."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9833. Adulteration of popcorn and pecan meats. U. S. v. Morris Rosenberg Co., and Morris Rosenberg. Pleas of nolo contendere. Fines, \$500 and \$200 against company and individual, respectively. (F. D. C. No. 17802. Sample Nos. 31039-H, 32027-H.)**

**INFORMATION FILED:** March 4, 1946, Southern District of California, against Morris Rosenberg Co., a partnership, Los Angeles, Calif., and Morris Rosenberg, a member of the partnership.

**ALLEGED SHIPMENT:** On or about February 24 and March 3, 1945, from the State of California into the States of Arizona and Texas.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence, in the popcorn, of rodent pellets and rodent hairs, and, in the pecan meats, of rodent hair fragments, insects, insect parts and fragments, larvae, flies, insect eggs, and grain beetles; and, Section 402 (a) (4), the articles had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** May 20, 1946. Pleas of nolo contendere having been entered, the company was fined \$250 on each of the 2 counts of the information, and the individual defendant was fined \$100 on each of the 2 counts.

**9834. Adulteration of popcorn. U. S. v. 800 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19817. Sample No. 70431-H.)**

**LIBEL FILED:** May 2, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about October 11, 1945, by the J. A. McCarthy Seed Co., from Durant, Okla.

**PRODUCT:** 800 100-pound bags of popcorn at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils.

**DISPOSITION:** May 31, 1946. Acme Food Products, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. After cleaning operations the fit portion was separated from the unfit, and the latter was used in the manufacture of pigeon feed.

**9835. Adulteration of popcorn. U. S. v. 80 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19878. Sample No. 50979-H.)**

**LIBEL FILED:** May 16, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 28, 1946, from Woodward, Iowa.

**PRODUCT:** 80 100-pound bags of popcorn at Wayzata, Minn., in possession of the Minnetonka Popcorn Co. The product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent-gnawed kernels and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 5, 1946. The Minnetonka Popcorn Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and brought into compliance with the law, under the supervision of the Federal Security Agency.

**9836. Adulteration of popcorn. U. S. v. 65 Bags of Popcorn. Default decree of condemnation and destruction. (F. D. C. No. 19684. Sample No. 65308-H.)**

**LIBEL FILED:** On or about April 25, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about June 25, 1945, from Philadelphia, Pa.

**PRODUCT:** 65 100-pound bags of popcorn at Atlantic City, N. J., in possession of the Mason Co., Inc. The product was stored under insanitary conditions after shipment. Examination showed the presence of rodent pellets and rodent- and insect-damaged kernels. Some of the bags were rodent-gnawed, and rodent excreta was observed on them.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 24, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9837. Adulteration of popcorn. U. S. v. 14 Bags of Popcorn. Default decree of condemnation and destruction.** (F. D. C. No. 20073. Sample No. 38824-H.)

**LIBEL FILED:** June 10, 1946, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about April 30, 1946, by Anton Jennaro, from Chicago, Ill.

**PRODUCT:** 14 100-pound bags of popcorn at Milwaukee, Wis.

**LABEL, IN PART:** "South American Pop Corn \* \* \* From Roy L. Randleman, Cobden, Illinois."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed kernels and rodent pellets.

**DISPOSITION:** August 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9838. Adulteration of popcorn. U. S. v. 10 Bags of Popcorn. Default decree of condemnation and destruction.** (F. D. C. No. 20359. Sample No. 60229-H.)

**LIBEL FILED:** June 21, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about April 29, 1946, by the Milton Sigg Co., from Napoleon, Ohio.

**PRODUCT:** 10 100-pound bags of popcorn at Sea Breeze, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs.

**DISPOSITION:** August 9, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9839. Adulteration of popcorn. U. S. v. 569 Cases of Popcorn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20040. Sample No. 35100-H.)

**LIBEL FILED:** May 28, 1946, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about October 26, 1945, by the Consolidated Pop Corn Co., from Dallas, Texas.

**PRODUCT:** 569 cases, each containing 36 10-ounce bags, of popcorn at Little Rock, Ark.

**LABEL, IN PART:** "RB Brand."

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils.

**DISPOSITION:** August 2, 1946. The Consolidated Pop Corn Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9840. Adulteration of rice and popcorn. U. S. v. 36 Bags of Rice and 25 Bags of Popcorn. Default decrees of condemnation. Products ordered sold to be denatured.** (F. D. C. No. 19848. Sample Nos. 34943-H, 34944-H.)

**LIBELS FILED:** May 7, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 19 and December 5, 1945, from Newport, Arkansas, and Evansville, Ind.

**PRODUCT:** 36 100-pound bags of rice and 25 100-pound bags of popcorn at St. Louis, Mo., in possession of the Krenning-Schlapp Grocer Co. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the products contained rodent excreta and rodent hairs.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the products consisted in whole or in part of filthy substances; and, Section 402(a)(4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** May 31, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered sold. It was further ordered that the products be denatured under the supervision of the Food and Drug Administration so that they could not be disposed of for human consumption.

**9841. Adulteration of rice. U. S. v. 247 Bags of Rice. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20004. Sample No. 19335-H.)

**LIBEL FILED:** May 16, 1946, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about January 17, 1946, from De Witt, Ark.

**PRODUCT:** 247 100-pound bags of rice at Des Moines, Iowa, in possession of the Blue Line Storage Co. The product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta was observed on them. Examination showed that the product contained rodent excreta and rodent hair fragments.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the article consisted in whole or in part of a filthy substance; and, Section 402(a)(4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 21, 1946. The Smith Rice Mills Co., De Witt, Ark., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the unfit portion and its conversion into animal feed or alcohol, under the supervision of the Federal Security Agency.

## CHOCOLATE, SUGARS, AND RELATED PRODUCTS

### CANDY

**9842. Adulteration of confectionery. U. S. v. Favorite Confection Co. Plea of nolo contendere. Fine, \$500.** (F. D. C. No. 20126. Sample Nos. 18796-H, 18797-H.)

**INFORMATION FILED:** June 27, 1946, Western District of Wisconsin, against the Favorite Confection Co., a corporation, Eau Claire, Wis.

**ALLEGED SHIPMENT:** On or about November 7, 1945, from the State of Wisconsin into the State of Minnesota.

**PRODUCT:** These products consisted of small bottle-shaped paraffin wax containers filled with a red sirup and small cone-shaped paraffin wax containers with a marshmallow filling.

**LABEL, IN PART:** "80 Count 1¢ Each Paraffin-Wax Soda Cones [or "Filled Bottles"]."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the articles consisted in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, a mite, and unidentified hair fragments; and, Section 402(a)(4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** July 8, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$500.

**9843. Adulteration of confectionery. U. S. v. 5 Cases of Confectionery. Consent decree of condemnation and destruction.** (F. D. C. No. 20061. Sample No. 47721-H.)

**LIBEL FILED:** June 10, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about May 13, 1946, by the G. and B. Candy Co., from Dallas, Tex.

**PRODUCT:** 5 cases, each containing 24 cartons of 80 pieces, of confectionery at Denver, Colo. The product was a small paraffin bottle containing a sweetened, artificially flavored and colored liquid. Examination showed the presence of saccharin.

**LABEL, IN PART:** "1¢ Each Bottle-O-Juice Ingredients Purified Paraffine Wax, Artificial Flavor, U. S. Certified Color, Sugar, Citric Acid, Water, Corn Syrup."



NATURE OF CHARGE: Adulteration, Section 402 (d), the product was confectionery and contained saccharin, a nonnutritive substance.

DISPOSITION: June 28, 1946. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9844. Adulteration of candy. U. S. v. 1,297 Boxes of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 20342. Sample No. 48951-H.)

LIBEL FILED: June 18, 1946, Northern District of Alabama.

ALLEGED SHIPMENT: On or about February 28, 1946, by the Stick Candy Company, from Shreveport, La.

PRODUCT: 1,297 boxes, each containing 36 sticks, of candy at Jasper, Ala.

LABEL, IN PART: "Barber Pole Stick Candy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, insect parts, insect excreta, and rodent hairs.

DISPOSITION: July 22, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9845. Adulteration of candy. U. S. v. 69 Cases of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 19967. Sample No. 54517-H.)

LIBEL FILED: May 31, 1946, Western District of South Carolina.

ALLEGED SHIPMENT: On or about March 23, 1946, by the Eason Candy Co., from Oklahoma City, Okla.

PRODUCT: 69 cases, each containing 25 pounds, of candy at Greenville, S. C.

LABEL, IN PART: "Toasted M. M. Squares \* \* \* Manufactured by Norton Candy Co. Oklahoma City."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance, since it had undergone fermentation and was decomposed.

DISPOSITION: July 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9846. Adulteration of candy. U. S. v. 56 Boxes of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 19917. Sample No. 63386-H.)

LIBEL FILED: May 14, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about April 1, 1946, by the Federal Sweets and Biscuit Co., Inc., Clifton, N. J.

PRODUCT: 56 boxes, each containing 48 1½-ounce pieces, of candy at Bronx, N. Y.

LABEL, IN PART: "Dutch Maid Chocolate Caramel Peanut Rounders."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9847. Adulteration of candy. U. S. v. 45 Gold Digger Punchboard Deals. Default decree of condemnation and destruction.** (F. D. C. No. 19876. Sample No. 35094-H.)

LIBEL FILED: May 17, 1946, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about March 4, 1946, by the Star Candy Co., from Dallas, Tex.

PRODUCT: 45 boxes (punchboard deals), each containing 2 8-ounce bars, 1 1-pound bar, and 12 1-ounce bars, of candy at Jonesboro, Ark.

LABEL, IN PART: (Boxes) "Gold Digger Deal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the candy consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments.

DISPOSITION: June 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9848. Adulteration of candy. U. S. v. 27 Cases of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 19787. Sample No. 32536-H.)

**LIBEL FILED:** April 24, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about May 18, 1945, by the Texarkana Candy Co., from Texarkana, Texas.

**PRODUCT:** 27 cases, each containing 20 boxes, of candy bars at San Diego, Calif. Each box contained 16 bars of candy.

**LABEL, IN PART:** "Ranger," "Good Scout," "Now Charlie," "Pal-O-Mine," "Mer-A-Cano," or "South Made."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** June 6, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9849. Adulteration of candy. U. S. v. 4 Cartons of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 20057. Sample No. 48949-H.)

**LIBEL FILED:** June 3, 1946, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about April 8, 1946, by the Ranch Maid Candy Co., from Terrell, Tex.

**PRODUCT:** 4 cartons of candy at Birmingham, Ala. Examination showed that the product was actively fermenting.

**LABEL, IN PART:** "Marshmallow Cane & Corn Syrup Malted Kernels Gelatin & Flav."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9850. Adulteration of candy. U. S. v. 2 Cartons of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 20537. Sample No. 1273-H.)

**LIBEL FILED:** On or about July 17, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about June 25, 1946, by W. W. Mac Co., from Greenville, Ala.

**PRODUCT:** 2 cartons of candy at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under unsanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9851. Adulteration of peanut brittle. U. S. v. 240 Cartons of Peanut Brittle. Default decree of condemnation and destruction.** (F. D. C. No. 20363. Sample No. 70450-H.)

**LIBEL FILED:** June 27, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 22, 1946, by Green Garden Confections, from Salt Lake City, Utah.

**PRODUCT:** 240 25-pound cartons of peanut brittle at Los Angeles, Calif.

**LABEL, IN PART:** "Quality Candy Made by Green Garden Confections Los Angeles 36 California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and larvae.

**DISPOSITION:** August 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9852. Misbranding of candy. U. S. v. 72 Boxes of Candy. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 19846. Sample No. 53005-H.)

**LIBEL FILED:** May 9, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 29, 1946, by the Fox-Cross Candy Co., from Cambridge, Mass.

**PRODUCT:** 72 boxes, each containing 24 bars, of candy at Cleveland, Ohio. Examination showed that the product was short-weight.



**LABEL, IN PART:** "Fox Cross Charleston Chew! Net Weight 1-1/2 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** June 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

#### CHOCOLATE AND CHOCOLATE PRODUCTS

**9853. Adulteration of chocolate. U. S. v. 9 Bales of Chocolate. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17448. Sample Nos. 13480-H, 13481-H.)

**LIBEL FILED:** On or about September 13, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of August 12, 1944, and April 24, 1945, by Rockwood and Co., from Brooklyn, N. Y.

**PRODUCT:** 9 bales, each containing 20 10-pound slabs, of chocolate at Cincinnati, Ohio.

**LABEL, IN PART:** "Stratford [or "Plymouth"] Sweet Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** September 14, 1945. Sauerston & Brown Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be cleaned in order to eliminate all filth, under the supervision of the Food and Drug Administration.

**9854. Adulteration of chocolate coating and sweet chocolate. U. S. v. 36 Cartons of Chocolate Coating and 31 Bags of Sweet Chocolate. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17408. Sample Nos. 13759-H, 13898-H.)

**LIBEL FILED:** September 7, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 23, 1945, by the Phoebe Phelps Caramel Co., from Boston, Mass.

**PRODUCT:** 36 cartons, each containing 5 10-pound slabs, of chocolate coating and 31 bags, each containing 20 10-pound slabs, of sweet chocolate at Cleveland, Ohio, in the possession of the Lederer Terminal Warehouse. These products contained rodent hair fragments, insect fragments, and larvae. The sweet chocolate had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta was observed on them.

**LABEL, IN PART:** "Peter's Superlative Chocolate Coating," or "Quality Lt. Med. Sweet Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), the sweet chocolate had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 11, 1945. E. Pellegatti, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond, conditioned that they be cleaned in order to eliminate all filth. If it were not possible to clean the products, they were to be disposed of for purposes other than human consumption, or destroyed.

**9855. Adulteration of chocolate sirup. U. S. v. 31 Cans of Chocolate Syrup. Default decree of condemnation and destruction.** (F. D. C. No. 17498. Sample No. 18686-H.)

**LIBEL FILED:** September 21, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about May 2, 1945, by the C. I. Products Co., from Cincinnati, Ohio.

**PRODUCT:** 31 No. 10 cans of chocolate sirup at New Lisbon, Wis. This product was undergoing active decomposition.

**LABEL, IN PART:** "Sun Meadow Brand Ice Cream Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** January 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**9856. Adulteration of chocolate-flavored sirup. U. S. v. 90 Cases of Chocolate Flavored Syrup. Default decree of condemnation and destruction.** (F. D. C. No. 17542. Sample No. 58011-H.)

**LIBEL FILED:** February 23, 1946, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about July 20 and August 2, 1945, by J. B. Robinson, from Cleveland, Ohio.

**PRODUCT:** 90 cases, each containing 24 1-pound jars, of chocolate-flavored sirup at Yakima, Wash.

**LABEL, IN PART:** "Rich Chocolate Flavored Syrup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insects, and insect fragments.

**DISPOSITION:** March 22, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### SIRUP AND SUGAR

**9857. Adulteration and misbranding of sugar cane sirup. U. S. v. 1 Drum and 44 Cases of Sugar Cane Syrup. Default decree of condemnation and destruction.** (F. D. C. No. 20514. Sample No. 65220-H.)

**LIBEL FILED:** July 10, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 19, 1946, by the Commodity Sales Co., Chicago, Ill.

**PRODUCT:** 1 unlabeled drum and 44 cases, each case containing 24 1-pint jars, of sugar cane sirup at Philadelphia, Pa. The portion in the cases had been shipped in unlabeled drums and repacked. The product was invoiced as "Sugar Cane Syrup," but examination showed that it was molasses.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), molasses had been substituted in whole or in part for sugar cane sirup, which the product was represented to be.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, sugar cane sirup; Section 403 (e) (1) and (2), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (1), its label failed to bear the common or usual name of the food.

**DISPOSITION:** August 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9858. Adulteration of sugar. U. S. v. 547 Bags of Sugar. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19841. Sample No. 1266-H.)

**LIBEL FILED:** May 6, 1946, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about June 1, 1945, from Tampa, Fla.

**PRODUCT:** 547 100-pound bags of sugar at Haddock, Ga., in possession of the Cherokee Products Co. The product had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta and urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 14, 1946. The Cherokee Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered. The product was ordered released under bond, conditioned that the contaminated portion be segregated and brought into compliance with the law by passing it through the complete sugar refining processes, under the supervision of the Federal Security Agency.

**9859. Adulteration of sugar. U. S. v. 214 Bags of Sugar. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20039. Sample No. 59331-H.)

**LIBEL FILED:** May 24, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 28, 1945, from Nyssa, Oreg.

**PRODUCT:** 214 100-pound bags of sugar at Puyallup, Wash.



NATURE OF CHARGE: Adulteration, Section 402 (a) (3).

DISPOSITION: July 12, 1946. Farmer's Cooperative Union, Inc., Puyallup, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

## DAIRY PRODUCTS

### BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 9860 and 9861; that was below the standard for milk fat content, Nos. 9862 to 9883; and that was short of the declared weight, Nos. 9884 and 9885.

**9860. Adulteration of butter. U. S. v. 20 Cases and 45 Cases of Butter. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 19982, 19984. Sample Nos. 49265-H, 49285-H.)**

**LIBELS FILED:** April 22 and 29, 1946, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about April 15 and 22, 1946, by the Sugar Creek Creamery Co., from Russellville, Ark.

**PRODUCT:** 65 32-pound cases of butter at New Orleans, La. Analysis showed that the product contained mold.

**LABEL, IN PART:** "Cudahy's Sunlight Creamery Butter \* \* \* The Cudahy Packing Co.," or "Velva Brand Creamery Butter Distributed by H. G. Hill Store, New Orleans, La."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance.

**DISPOSITION:** June 20, 1946. The Sugar Creek Creamery Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product, with the exception of 1 churn, was ordered released under bond to be reworked into butter oil, under the supervision of the Food and Drug Administration.

**9861. Adulteration of butter. U. S. v. 340 Pounds of Butter. Default decree of condemnation. Product ordered used in the manufacture of soap. (F. D. C. No. 20285. Sample No. 40324-H.)**

**LIBEL FILED:** May 27, 1946, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about May 17, 1946, by the Armour & Co. Creamery, from Springfield, Mo.

**PRODUCT:** 340 pounds of butter at National Stock Yards, Ill. This product contained excessive mold.

**LABEL, IN PART:** "Armour's Cloverbloom Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance.

**DISPOSITION:** June 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered used in the manufacture of soap, under the supervision of the United States marshal.

**9862. Adulteration of butter. U. S. v. Martin A. Nielson (Hardy North Nielson Creamery). Plea of guilty. Fine, \$150. (F. D. C. No. 16604. Sample Nos. 83096-F, 97620-F, 97917-F, 5641-H.)**

**INFORMATION FILED:** April 22, 1946, District of Minnesota, against Martin A. Nielson, trading as the Hardy North Nielson Creamery, at Thief River Falls, Minn.

**ALLEGED SHIPMENT:** On or about October 30 and December 14, 1944, from the State of Minnesota into the State of New York.

**LABEL, IN PART:** "Penn Blue Ridge Dairy \* \* \* New York City Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 4, 1946. A plea of guilty having been entered, the defendant was fined \$150.

**9863. Adulteration of butter, U. S. v. The Granite City Cooperative Creamery Association, Inc. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 17852. Sample Nos. 11549-H, 11956-H, 11959-H.)**

**INFORMATION FILED:** May 7, 1946, District of Vermont, against The Granite City Cooperative Creamery Association, Inc., Barre, Vt.

**ALLEGED SHIPMENT:** On or about May 10 and June 27 and 28, 1945, from the State of Vermont into the State of Massachusetts.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent of the article, milk fat, had been in part omitted; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 11, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$50 on each of the 3 counts of the information.

**9864. Adulteration of butter, U. S. v. New England Dairies, Inc. Plea of guilty. Fine, \$100. (F. D. C. No. 20106. Sample Nos. 11276-H, 11562-H, 11920-H.)**

**INFORMATION FILED:** June 14, 1946, District of Vermont, against the New England Dairies, Inc., Concord, Vt.

**ALLEGED SHIPMENT:** On or about June 3 and July 19, 1945, from the State of Vermont into the State of Massachusetts.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 25, 1946. A plea of guilty having been entered, the court imposed a fine of \$50 on each of the 2 counts of the information.

**9865. Adulteration of butter, U. S. v. 5 Cartons (315 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20494. Sample No. 63731-H.)**

**LIBEL FILED:** June 19, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 2, 1946, by the Myers Produce Creamery, Bourbon, Ind.

**PRODUCT:** 5 63-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Weissglass Gold Seal Dairy Corp. \* \* \* Staten Island 3, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 1, 1946. Manes Yaeger, New York, N. Y., claimant, having admitted the truth of the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9866. Adulteration of butter, U. S. v. 4 Boxes (240 pounds) of Butter. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 20495. Sample No. 19498-H.)**

**LIBEL FILED:** June 19, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 5, 1946, by the Cushing Creamery Co., Cushing, Minn.

**PRODUCT:** 4 60-pound boxes of butter at New York, N. Y.

**LABEL, IN PART:** "Sunnydale Farms, Inc. \* \* \* New York City, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9867. Adulteration of butter, U. S. v. 30 30-pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20496. Sample No. 51614-H.)**

**LIBEL FILED:** May 29, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about May 14, 1946, by the Farmer's Coop. Creamery, from Dell Rapids, S. Dak.

**PRODUCT:** 30 30-pound cartons of butter at Cambridge, Mass.



**LABEL, IN PART:** "Butter \* \* \* Packed for Tri-State Co-operative Dairy Ass'n Pipestone, Minnesota."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 26, 1946. The Pipestone Produce Co., Somerville, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9868. Adulteration of butter. U. S. v. 11 Boxes (approximately 704 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20500. Sample No. 51358-H.)

**LIBEL FILED:** June 14, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 5, 1946, by the Larimore Creamery, from Larimore, N. Dak.

**PRODUCT:** 11 boxes, each containing approximately 64 pounds, of butter at New York, N. Y.

**LABEL, IN PART:** "Distributed By Alex Mersel & Son New York \* \* \* Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 2, 1946. Alex Mersel & Son, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9869. Adulteration of butter. U. S. v. 25 Cases of Butter. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 20715. Sample Nos. 35399-H, 40701-H.)

**LIBEL FILED:** July 15, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about June 13, 1946, by the Beatrice Creamery Co., from Fort Madison, Iowa.

**PRODUCT:** 25 cases, each containing 32 pounds, of butter at St. Louis, Mo.

**LABEL, IN PART:** "Meadow Gold Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**9870. Adulteration of butter. U. S. v. 85 Boxes (5,525 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20716. Sample No. 51710-H.)

**LIBEL FILED:** July 11, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 3, 1946, by the Park Rapids Coop. Creamery, from Park Rapids, Minn.

**PRODUCT:** 85 boxes, each containing 65 pounds, of butter at Charlestown, Mass.

**LABEL, IN PART:** "Pipestone Produce Co. Somerville, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 20, 1946. The Pipestone Produce Co., Somerville, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9871. Adulteration of butter. U. S. v. 11 Cartons (726 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20717. Sample No. 19767-H.)

**LIBEL FILED:** July 18, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 2, 1946, by the Midwest Dairy Despatch, Minneapolis, Minn.

**PRODUCT:** 11 66-pound cartons of butter at Philadelphia, Pa.

**LABEL, IN PART:** "Food Fair Stores, Inc. \* \* \* Philadelphia, Pa."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 31, 1946. C. G. Heyd & Co., Philadelphia, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9872. Adulteration of butter. U. S. v. 100 Cartons and 207 Cartons (20,041 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 20493, 20721. Sample Nos. 65028-H, 65029-H.)

**LIBELS FILED:** June 19 and July 3, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about June 10 and 14, 1946, by Ligik Distributors, from New York, N. Y., and Jersey City, N. J.

**PRODUCT:** 100 70-pound cartons and 207 63-pound cartons of butter at Philadelphia, Pa.

**LABEL, IN PART:** "Distributed by Barad Shaff Sales Company, New York City."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 25, 1946. The Barad Shaff Sales Co., New York, N. Y., claimant, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be used in the manufacture of ice cream, under the supervision of the Food and Drug Administration.

**9873. Adulteration of butter. U. S. v. 20 Cartons (1,280 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20490. Sample No. 51706-H.)

**LIBEL FILED:** June 20, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about June 1, 1946, by the Gilmanton Cooperative Creamery Co., from Gilmanton, Wis.

**PRODUCT:** 20 cartons, each containing 64 pounds, of butter at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 28, 1946. The Land O'Lakes Creameries, Inc., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9874. Adulteration of butter. U. S. v. 34 Cartons and 30 Cartons (3,976 pounds) of Butter. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 20281, 20491. Sample Nos. 51237-H, 63713-H.)

**LIBELS FILED:** May 22 and June 13, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 4 and June 1, 1946, by the McClusky Creamery Co., McClusky, N. Dak.

**PRODUCT:** 34 64-pound cartons and 30 60-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "Butter \* \* \* J. Rosenblum & Sons Distributors," or "Herold Co. Inc. Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 29 and June 28, 1946. J. Rosenblum & Sons, Paterson, N. J., having appeared as claimant for the 34 cartons and Joseph J. Herold Co., Inc., having appeared as claimant for the 30 cartons, and having admitted the allegations of the respective libels, judgments of condemnation were entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9875. Adulteration of butter. U. S. v. 5 Cases of Butter. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 20287. Sample No. 35374-H.)

**LIBEL FILED:** On or about May 31, 1946, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about May 20, 1946, by the Paul A. Schulze Co., from St. Louis, Mo.



PRODUCT: 5 30-pound cases of butter at Granite City, Ill.

LABEL, IN PART: "Clover Springs Brand Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9876. Adulteration of butter. U. S. v. 13 Cartons (approximately 819 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19981. Sample No. 19477-H.)**

LIBEL FILED: April 23, 1946, District of Minnesota.

ALLEGED SHIPMENT: On or about April 17, 1946, from Elkton, S. Dak., by the Elkton Farmer's Creamery.

PRODUCT: 13 cartons, each containing about 63 pounds, of butter at Minneapolis, Minn.

LABEL, IN PART: "Bulk Butter First National Stores Somerville, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 30, 1946. The Tri-State Co-Operative Dairy Association, Pipestone, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

**9877. Adulteration of butter. U. S. v. 10 Cartons (600 pounds) of Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 19985. Sample No. 50753-H.)**

LIBEL FILED: May 7, 1946, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 30, 1946, by Morris Rifkin & Son, Div. Food Fair Stores, Inc., from South St. Paul, Minn.

PRODUCT: 10 60-pound cartons of butter at Philadelphia, Pa.

LABEL, IN PART: "Food Fair Stores, Inc. No. 18 Philadelphia, Pa. \* \* \* Packed for National Butter Company, Dubuque, Iowa Regal Farmer Regal, Minn."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 13, 1946. The Food Fair Stores, Inc., Philadelphia, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9878. Adulteration of butter. U. S. v. 45 Cartons (2,970 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19986. Sample No. 51315-H.)**

LIBEL FILED: May 2, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about April 25, 1946, by A. C. Goldblatt, Minneapolis, Minn.

PRODUCT: 45 66-pound cartons of butter at New York, N. Y.

LABEL, IN PART: "Butter Distributed by Lakeside Butter Company Division of Plymouth Products, Inc. Head Office, Oakland, California."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 22, 1946. Charles Goldblatt, trading as Western Produce, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9879. Adulteration of butter. U. S. v. 14 Cartons (924 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19987. Sample No. 51313-H.)**

LIBEL FILED: May 6, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about April 24, 1946, by the Red Lake Falls Creamery, Red Lake Falls, Minn.

PRODUCT: 14 66-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "N. W. Butter & Egg Co. \* \* \* Minneapolis."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 22, 1946. The Red Lake Falls Creamery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9880. Adulteration of butter. U. S. v. 34 Cartons (2,176 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19989. Sample No. 19481-H.)**

**LIBEL FILED:** On or about May 3, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 24, 1946, by the Harvey Cooperative Creamery, Harvey, N. Dak.

**PRODUCT:** 34 64-pound cartons of butter at New York, N. Y.

**LABEL, IN PART:** "J. Rosenblum & Sons Distributors 61 Paterson, N. J."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 15, 1946. J. Rosenblum & Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9881. Adulteration of butter. U. S. v. 15 Cartons (900 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19758. Sample No. 63308-H.)**

**LIBEL FILED:** May 3, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 13, 1946, by the Spring Valley Dairy, Winterset, Iowa.

**PRODUCT:** 15 60-pound cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 14, 1946. J. J. Mullins & Co., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9882. Adulteration of butter. U. S. v. 30 Boxes (1,500 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19757. Sample No. 50967-H.)**

**LIBEL FILED:** On or about April 25, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 16, 1946, by the Bethel Creamery, Bethel, Minn.

**PRODUCT:** 30 50-pound boxes of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 16, 1946. The Lilydale Farms Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**9883. Adulteration and misbranding of butter. U. S. v. 42 Cartons (approximately 2,100 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20497. Sample No. 51168-H.)**

**LIBEL FILED:** June 3, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 25, 1946, by the Northern Produce Co., St. Paul, Minn.

**PRODUCT:** 42 cartons, each containing approximately 50 1-pound prints, of butter at New York, N. Y.

**LABEL, IN PART:** "Helfer King Inc. Distributors \* \* \* New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.



**DISPOSITION:** June 26, 1946. Helfer King, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked. It was further ordered that any unfit portion of the butter be destroyed or denatured for nonedible grease purposes, and that the repackaged product be plainly and conspicuously marked to show the true quantity of the contents, under the supervision of the Food and Drug Administration.

**9884. Misbranding of butter. U. S. v. 903 Cartons (approximately 28,896 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20291. Sample No. 63725-H.)

**LIBEL FILED:** June 10, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 28, 1946, by the Omaha Cold Storage Co., Omaha, Nebr.

**PRODUCT:** 903 cartons, each purporting to contain 32 pounds, of butter at New York, N. Y. Examination showed that the product was short-weight.

**LABEL, IN PART:** (Wrapper) "Ocoma Brand Unsalted Butter  $\frac{1}{4}$  Lb. Net Distributed by Bellevue Creamery & Produce Company Omaha Nebraska."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** July 19, 1946. The Omaha Cold Storage Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be repackaged to the labeled weight, under the supervision of the Food and Drug Administration.

**9885. Misbranding of butter. U. S. v. 7 Cartons (approximately 211 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19983. Sample No. 63702-H.)

**LIBEL FILED:** April 25, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 17, 1946, by the Zenith-Godley Co., Inc., from New York, N. Y.

**PRODUCT:** 6 cartons, each containing 32 prints, and 1 carton, containing 19 prints, of butter at Jersey City, N. J. Examination disclosed that the product was short-weight.

**LABEL, IN PART:** (Prints) "One Pound Net Cremoland Brand Sweet Cream Butter."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** June 4, 1946. The Zenith-Godley Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reprinting under the supervision of the Federal Security Agency.

#### CHEESE

**9886. Adulteration and misbranding of grated cheese. U. S. v. Armada Food Products Co., and Guido P. Marciano. Pleas of nolo contendere. Fine, \$50 and costs.** (F. D. C. No. 17774. Sample Nos. 10229-H, 10230-H.)

**INFORMATION FILED:** January 29, 1946, Northern District of Illinois, against the Armada Food Products Co., a partnership, Chicago, Ill., and Guido P. Marciano, a member of the partnership.

**ALLEGED SHIPMENT:** On or about February 12, 1945, from the State of Illinois into the State of Ohio.

**LABEL, IN PART:** "Armada Tasty Italian Type Sharp Grated Cheese [or "American Type Mild Grated Cheese"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), mixtures of cheese, soy bean meal, salt, and defatted milk solids had been substituted for "Italian Type Sharp Cheese" and "American type Mild Grated Cheese," which the products purported and were represented to be; and, Section 402 (b) (4), soy bean meal, salt, and defatted milk solids had been mixed and packed with the products so as to increase their bulk and weight and reduce their quality.

Misbranding, Section 403 (a), the label statements, "Italian Type Sharp Grated Cheese," "This Sharp Italian Cheese Is Especially Selected For Your Protection," "American Type Mild Grated Cheese," and "This Mild American Cheese Is Especially Selected For Your Protection," were false and misleading.

**DISPOSITION:** June 11, 1946. Pleas of nolo contendere having been entered, the defendants were fined \$50, plus costs.



**9887. Adulteration of whey cheese. U. S. v. Mannino Cheese Co., and Marco Mannino and Joseph S. Mannino. Pleas of guilty. Fine, \$300 on count 1 (\$100 against each defendant); imposition of sentence suspended on remaining count, and individual defendants placed on probation for 2 years. (F. D. C. No. 16612. Sample Nos. 7701-H, 7702-H.)**

**INFORMATION FILED:** March 11, 1946, Middle District of Pennsylvania, against the Mannino Cheese Co., a partnership, and Marco Mannino and Joseph S. Mannino, partners.

**ALLEGED SHIPMENT:** On or about May 25 and June 4, 1945, from Potter Brook, Pa., to Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of paint and dirt fragments, insects and insect fragments, rodent hair fragments, human and cat hairs, unidentified animal hair, wood splinters, pebbles, plant and brush fibers, mold, rust, soot and coal fragments, and sand; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 5, 1946. Pleas of guilty having been entered, each of the three defendants was fined \$100 on count 1. Imposition of sentence was suspended on count 2, and the individual defendants were placed on probation for 2 years.

**9888. Adulteration and misbranding of cheese. U. S. v. 4 Boxes of Cheese. Default decree of forfeiture. Product ordered delivered to a public institution. (F. D. C. No. 20022. Sample No. 51078-H.)**

**LIBEL FILED:** May 22, 1946, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about March 18, 1946, by the Dubuque Cooperative Dairy, Dubuque, Iowa.

**PRODUCT:** 4 boxes of cheese at Platteville, Wis. Each box contained 1 cheese weighing approximately 75 pounds.

**NATURE OF CHARGE:** Adulteration, Section 402(b)(2), a product containing excessive moisture and deficient in milk fat had been substituted in whole or in part for Cheddar cheese, which the product was purported to be.

Misbranding, Section 403(g)(1), the product failed to conform to the definition and standard of identity for Cheddar cheese since it contained more than 39 percent of moisture, and its solids contained less than 50 percent of milk fat.

**DISPOSITION:** August 1, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered delivered to a public institution.

**9889. Adulteration of Cheddar cheese. U. S. v. 96 Cases of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20258. Sample No. 30688-H.)**

**LIBEL FILED:** July 12, 1946, District of Arizona.

**ALLEGED SHIPMENT:** On or about May 6, 1946, by the Superior Cheese Co., Green Bay, Wis.

**PRODUCT:** 96 cases, each containing 48 ½-pound packages, of Cheddar cheese at Phoenix, Ariz.

**LABEL, IN PART:** "Berkshire Brand."

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold.

**DISPOSITION:** August 13, 1946. Plymouth Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by segregating and denaturing the unfit portion, under the supervision of the Food and Drug Administration.

**9890. Adulteration of Colby cheese. U. S. v. 3 Boxes of Colby Cheese. Default decree of condemnation and destruction. (F. D. C. No. 20296. Sample No. 63421-H.)**

**LIBEL FILED:** On or about June 28, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 11, 1946, by the Homeland Dairy Co., Mauston, Wis.

**PRODUCT:** 3 boxes, each containing approximately 70 pounds, of Colby cheese.

**NATURE OF CHARGE:** Adulteration, Section 402(a)(3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect frag-



ments and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9891. Adulteration and misbranding of grated cheese. U. S. v. 15 Cartons of Grated Cheese (and 3 other seizure actions against grated cheese). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 20479, 20518 to 20520, incl. Sample Nos. 47186-H, 59880-H to 59882-H, incl., 59884-H.)**

**LIBELS FILED:** July 3 and 16, 1946, District of Massachusetts and Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 15, 17, and 20, 1946, by Kurtz Brothers, from Bridgeport, Pa.

**PRODUCT:** 187 cases of grated cheese at Youngstown, Ohio, and 100 cases of the same product at Worcester, Mass. Examination disclosed that the product contained lactose, indicating the presence of a milk product other than cheese. Sixty-three cartons of the Youngstown lot were short-weight.

**LABEL, IN PART:** "Magic Chef Grated Italian Parmesan Style Cheese Net Wt. 1½ Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated Italian Parmesan style cheese.

Misbranding, Section 403 (a), the label designation, "Grated Italian Parmesan Style Cheese," was false and misleading. Further misbranding, Section 403 (e) (2), 63 cartons of the product at Youngstown failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** August 6 and 23, 1946. Kurtz Brothers, Inc., claimant having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond, conditioned that the lot at Worcester be relabeled and the remaining lots be denatured for use as chicken feed, under the supervision of the Food and Drug Administration.

**9892. Adulteration and misbranding of grated cheese. U. S. v. 10 Cases of Grated Cheese. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 19884. Sample No. 65022-H.)**

**LIBEL FILED:** May 7, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 2, 1946, by George T. Felici, from Philadelphia, Pa.

**PRODUCT:** 10 cases, each containing 48 2-ounce jars, of grated cheese at Trenton, N. J. This product contained about 22 percent of lactose, indicating the presence of a milk product other than cheese.

**LABEL, IN PART:** "Latella's Brand Grated Cheese \* \* \* Packed by G. Latella & Sons Phila Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese.

Misbranding, Section 403 (a), the label designation "Grated Cheese" was false and misleading since the article contained a milk product other than cheese.

**DISPOSITION:** June 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9893. Adulteration and misbranding of grated cheese. U. S. v. 3 Cases of Grated Cheese. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 19721. Sample No. 65307-H.)**

**LIBEL FILED:** On or about May 4, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 20, 1946, by the New Yorker Cheese Co., from Philadelphia, Pa.

**PRODUCT:** 3 cases, each containing 24 1-pound cartons, of grated cheese at Atlantic City, N. J. Examination showed that the product contained approximately 20 percent lactose, indicating the presence of a milk product other than cheese.

**LABEL, IN PART:** "New Yorker Brand Italian Style Grated Cheese."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese, which the product was represented to be.

Misbranding, Section 403 (a), the label designation "Italian Style Grated Cheese" was false and misleading as applied to an article containing a milk product other than cheese.

**DISPOSITION:** June 3, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9894. Adulteration and misbranding of grated cheese. U. S. v. 288 Envelopes of Grated Cheese. Default decree of condemnation and destruction. (F. D. C. No. 20266. Sample No. 5534-H.)**

**LIBEL FILED:** On or about June 19, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 4, 1946, by Basso Pure Food Products, from Philadelphia, Pa.

**PRODUCT:** 24 cards, each containing 12  $\frac{3}{4}$ -ounce envelopes, of grated cheese at Gloucester City, N. J. Examination showed that the product contained approximately 28 percent lactose, indicating the presence of a milk product other than cheese.

**LABEL, IN PART:** (Envelopes) "Mrs. Basso's Pure Foods Phila. Pa. Italian Grated Cheese Blend of Parmesan & Romano."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese, which the article was represented to be.

Misbranding, Section 403 (a), the statements (on the cards), "Italian Grated Cheese" and (on the envelopes) "Italian Grated Cheese Blend of Parmesan & Romano," were false and misleading.

**DISPOSITION:** July 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9895. Misbranding of grated cheese. U. S. v. 29 Cards of Grated Cheese. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 19933. Sample No. 65313-H.)**

**LIBEL FILED:** May 17, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 23, 1946, by the Serv-Agen Corporation, from Philadelphia, Pa.

**PRODUCT:** 29 cards, each containing 12  $\frac{3}{4}$ -ounce envelopes, of grated cheese at Atlantic City, N. J. Examination showed that the product contained approximately 22 percent lactose, indicating the presence of a milk product other than cheese.

**LABEL, IN PART:** "Grated Cheese \* \* \* Italian Style."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese.

Misbranding, Section 403 (a), the label statement "Grated Cheese" was false and misleading.

**DISPOSITION:** July 1, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution on the condition that the labels be destroyed.

**9896. Misbranding of grated cheese. U. S. v. 1 Bag of Grated Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20275. Sample No. 5533-H.)**

**LIBEL FILED:** On or about June 21, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 29, 1946, by M. Wildstein and Sons, from Philadelphia, Pa.

**PRODUCT:** 1 unlabeled bag, containing approximately 49 $\frac{1}{2}$  pounds, of grated cheese at Mount Ephraim, N. J. This product contained approximately 17 percent of lactose, indicating the presence of a milk product other than cheese.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), the label failed to bear the common or usual name of the food; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient.



**DISPOSITION:** July 1, 1946. M. Wildstein and Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9897. Adulteration of Romano cheese. U. S. v. 14 Romano Cheeses. Default decree of condemnation and destruction.** (F. D. C. No. 20352. Sample No. 60405-H.)

**LIBEL FILED:** June 19, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about June 6, 1946, by the Roma Extract Co., from Boston, Mass. This product had been shipped originally by the Empire State Cheese Co., New York, N. Y., to Boston, Mass., and was returned by the consignee.

**PRODUCT:** 14 15-pound Romano cheeses at Olean, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed cheese and rodent pellets; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9898. Adulteration of Welsh-rarebit (cheese spread). U. S. v. 23 Cartons, 8 Cartons, and 6 Cases of Welsh-rarebit. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19976, 20243. Sample Nos. 7370-H, 56717-H, 63408-H.)

**LIBELS FILED:** May 29 and June 12, 1946, Districts of New Jersey and Massachusetts.

**ALLEGED SHIPMENT:** Between the approximate dates of March 18, 1945, and January 29, 1946, by the Magnolia Food Products Corporation, from Brooklyn, N. Y.

**PRODUCT:** 23 cartons, each containing 24 4-ounce jars, and 8 cartons, each containing 24 12-ounce jars, of Welsh-rarebit at Newark, N. J., and 6 cases, each containing 24 12-ounce jars, of the same product at Salem, Mass. A portion of this product was decomposed, and the remainder was undergoing progressive decomposition.

**LABEL, IN PART:** "Magnolia Brand Welsh-rarebit."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 1 and August 6, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

### EGGS

**9899. Adulteration of frozen whole eggs and adulteration and misbranding of frozen egg yolks. U. S. v. Marion Creamery & Poultry Co. (Columbia Produce Co.). Plea of nolo contendere. Fine, \$100.** (F. D. C. No. 17822. Sample Nos. 4512-H, 4514-H, 27417-H, 28054-H, 28056-H, 28057-H, 28717-H.)

**INFORMATION FILED:** February 26, 1946, District of Oregon, against the Marion Creamery and Poultry Co., trading as the Columbia Produce Co., Portland, Oreg.

**ALLEGED SHIPMENT:** Between the approximate dates of February 2 and March 15, 1945, from the State of Oregon into the States of Pennsylvania and Washington.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the whole eggs consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs, and one lot of the whole eggs and one lot of the egg yolks were unfit for food by reason of the presence of musty eggs.

Misbranding, Section 403 (g) (1), the egg yolk failed to conform to the definition and standard of identity prescribed by the regulations, since they contained less than 43 percent total egg solids, the minimum egg solids permitted in egg yolks by the definition and standard.

**DISPOSITION:** June 25, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$100.

**9900. Adulteration of frozen whole eggs. U. S. v. 763 and 166 30-Pound Cans of Frozen Whole Eggs. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 19685, 19947. Sample Nos. 5282-H, 63306-H.)

**LIBELS FILED:** April 18 and May 22, 1946, Southern District of New York and Eastern District of Pennsylvania.



**ALLEGED SHIPMENT:** On or about March 5 and 12, 1946, by Armour & Co., from Fargo, N. Dak.

**PRODUCT:** Frozen eggs. 763 cans at New York, N. Y., and 166 cans at Philadelphia, Pa.

**LABEL, IN PART:** "Armour's Cloverbloom Frozen Whole Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 10 and July 11, 1946. Armour & Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for the separation of the fit from the unfit portion. The unfit portion was ordered destroyed or denatured under the supervision of the Food and Drug Administration.

**9901. Adulteration of dried whole eggs. U. S. v. 4 Boxes of Dried Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 20028. Sample No. 10779-H.)**

**LIBEL FILED:** May 22, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about November 8, 1944, by Land O Lakes Creamery, from Albert Lea, Minn.

**PRODUCT:** 4 110-pound boxes of dried eggs at Cuba, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets, rodent hairs, and pieces of wood.

**DISPOSITION:** June 17, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### FISH AND SHELLFISH

**9902. Adulteration of canned anchovies. U. S. v. 2 Cases and 12 Cases of Canned Anchovies. Default decrees of condemnation and destruction. (F. D. C. Nos. 19895, 20351. Sample Nos. 8485-H, 43932-H.)**

**LIBELS FILED:** On or about May 13, 1946, and June 19, 1946, District of Connecticut and Southern District of California.

**ALLEGED SHIPMENT:** On or about March 27, 1945, and February 19, 1946, by H. Schoenfeld and Sons, New York, N. Y.

**PRODUCT:** 2 cases, each containing 100 6-ounce tins, of anchovies at New Haven, Conn., and 12 cases, each containing 24 13-ounce tins, of anchovies at Los Angeles, Calif.

**LABEL, IN PART:** "Club Brand Filet of Anchovies \* \* \* Packed by Sociedad Chilena Industrial De Pesca, Talcahuano, Chile," or "Ancha Flat Filets of Anchovies \* \* \* Packed by M. Ladeira and Ca. Lda. Olhao Portugal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 22 and July 8, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9903. Misbranding of canned crab meat. U. S. v. Edward J. Fleming. Plea of guilty. Fine, \$250 on 1 count; sentence suspended on 3 counts. (F. D. C. No. 16614. Sample Nos. 4111-H, 4707-H, 5813-H, 32762-H, 32766-H.)**

**INFORMATION FILED:** May 6, 1946, Eastern District of Virginia, against Edward J. Fleming, Portsmouth, Va.

**ALLEGED SHIPMENT:** On or about February 24 and 27, 1945, from the State of Virginia into the States of Maryland, Delaware, Pennsylvania, and New York.

**LABEL, IN PART:** (Portion) "J. H. Fleming & Co. 1 Lb. Net Claw [or "Regular," "Special," or "De Luxe"] Crab meat"; (remainder) "Packed for Lucien Prince & Co. 1 Lb. Net De Luxe Crab Meat."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the cans contained less than 1 pound net.

**DISPOSITION:** May 7, 1946. A plea of guilty having been entered, the defendant was fined \$250 on 1 count, and imposition of sentence was suspended for 3 years on the remaining 3 counts.



**9904. Adulteration of canned crab meat. U. S. v. 3 Barrels of Canned Crab Meat. Default decree of condemnation and destruction. (F. D. C. No. 20502. Sample No. 54545-H.)**

**LIBEL FILED:** June 20, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 18, 1946, by the Lewis Crab Factory, Brunswick, Ga.

**PRODUCT:** 3 barrels containing a total of 268 1-pound cans of crab meat at New York, N. Y. Examination showed that the product was contaminated with *B. coli* of fecal origin.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance.

**DISPOSITION:** July 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9905. Adulteration of canned crab meat. U. S. v. 1 Barrel of Canned Crab Meat. Default decree of condemnation and destruction. (F. D. C. No. 20504. Sample No. 1523-H.)**

**LIBEL FILED:** On or about June 14, 1946, District of Maryland.

**ALLEGED SHIPMENT:** On or about June 11, 1946, by J. M. Jackson & Sons, Savannah, Ga.

**PRODUCT:** 1 barrel containing 36 1-pound cans of lump crab meat and 31 1-pound cans of claw crab meat at Baltimore, Md. Examination showed that the product was contaminated with *B. coli* of fecal origin.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance.

**DISPOSITION:** July 24, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9906. Adulteration of frozen fish fillets. U. S. v. 495 Boxes of Frozen Fish Fillets. Default decree of condemnation and destruction. (F. D. C. No. 20299. Sample No. 1877-H.)**

**LIBEL FILED:** July 3, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about June 5, 1946, by M. H. Jones, of the Rome Fish and Oyster Co., from Chattanooga, Tenn.

**PRODUCT:** 495 boxes, each containing 20 pounds, of frozen fish fillets at Atlanta, Ga.

**LABEL, IN PART:** "Standard Brand Fillets Packed By Standard Fish Co. Boston, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 31, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9907. Adulteration of frozen haddock fillets. U. S. v. 515 Boxes of Frozen Haddock Fillets. Default decree of condemnation and destruction. (F. D. C. No. 19909. Sample No. 9011-H.)**

**LIBEL FILED:** May 14, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 17, 1946, by General Ice and Cold Storage, from New Bedford, Mass.

**PRODUCT:** 515 10-pound boxes of frozen haddock fillets at New York, N. Y.

**LABEL, IN PART:** "Superior Fillets, Inc., New Bedford, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** June 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9908. Adulteration of frozen hake fillets. U. S. v. 3,134 Cartons of Frozen Hake Fillets. Consent decree of condemnation and destruction. (F. D. C. No. 17885. Sample Nos. 17996-H, 17999-H.)**

**LIBEL FILED:** October 16, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 5, 1945, by the Seaview Fish Co., from Boston, Mass.

**PRODUCT:** 3,134 10-pound cartons of frozen hake fillets at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** June 12, 1946. All parties in interest having consented, judgment of condemnation was entered and the product was ordered destroyed.

**9909. Adulteration of frozen hake fillets. U. S. v. 325 Boxes and 224 Boxes of Frozen Hake Fillets. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19741, 19742. Sample Nos. 63212-H to 63214-H, incl., 63218-H, 63219-H, 63223-H.)

**LIBELS FILED:** May 6, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 26 and 27, 1945, by Tichon's Fish and Fillet Corporation, from New Bedford, Mass.

**PRODUCT:** 49 10-pound boxes and 500 15-pound boxes of frozen hake fillets at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 22, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9910. Adulteration of frozen hake fillets. U. S. v. 254 Boxes of Frozen Hake Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 19766. Sample Nos. 63215-H, 63220-H.)

**LIBEL FILED:** May 8, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 6, 1945, by the Coastal Fisheries, from New Bedford, Mass.

**PRODUCT:** 254 10-pound boxes of frozen hake fillets at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 23, 1946. No claimant having appeared, judgment of condemnation was entered. It was ordered that a portion of the product be released to the Federal Security Agency and that the remainder be destroyed.

**9911. Adulteration of frozen hake fillets. U. S. v. 96 Cartons of Frozen Hake Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 19955. Sample Nos. 63229-H, 63232-H.)

**LIBEL FILED:** May 27, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 14 and 15, 1945, in various lots, by James Enos, Provincetown, Mass., the Anchor Fish Co., New Bedford, Mass., and the Producers Fish Co., Gloucester, Mass.

**PRODUCT:** 96 cartons, each containing 20 pounds, of frozen hake fillets at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9912. Adulteration of frozen hake fillets. U. S. v. 69 Cartons of Frozen Hake Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 19929. Sample Nos. 63230-H, 63234-H.)

**LIBEL FILED:** May 16, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 16, 1945, by the American Fillet Co., Gloucester, Mass.

**PRODUCT:** 69 cartons, each containing 20 pounds, of frozen hake fillets at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of decomposed fish.

**DISPOSITION:** May 31, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9913. Adulteration of frozen hake fillets. U. S. v. 47 Cartons of Frozen Hake Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 19924. Sample Nos. 63228-H, 63231-H, 63235-H.)

**LIBEL FILED:** May 17, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 25 and October 2, 1945, by the Producer's Fish Co., Gloucester, Mass.

**PRODUCT:** 47 20-pound cartons of frozen hake fillets at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of decomposed fish.



DISPOSITION: May 31, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9914. Adulteration of frozen halibut. U. S. v. 2,168 Pounds of Frozen Halibut. Default decree of condemnation and destruction.** (F. D. C. No. 20276. Sample Nos. 63236-H, 63237-H.)

**LIBEL FILED:** June 21, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 23, 1946, by Golden, Mandelbaum and Miller, Inc., from Newark, N. J.

**PRODUCT:** 2,168 pounds of frozen halibut at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 10, 1946. No claimant having appeared, judgment of condemnation was entered. It was ordered that a portion of the product be released to the Federal Security Agency and that the remainder be destroyed.

**9915. Adulteration of canned lobster. U. S. v. 43 Cases of Canned Lobster. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19959. Sample No. 11832-H.)

**LIBEL FILED:** May 28, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about September 8 and October 5, 1945, by R. A. Templeton, from St. Johns, Newfoundland.

**PRODUCT:** 43 cases, each containing 48 12-ounce cans, of lobsters at Boston, Mass.

**LABEL, IN PART:** "Old Colony Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 2, 1946. Dench & Hardy Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

**9916. Adulteration of frosted rosefish fillets. U. S. v. 148 Boxes of Frosted Rosefish Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 19971. Sample No. 1845-H.)

**LIBEL FILED:** June 10, 1946, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about May 2, 1946, by the Independent Fish Co., from Baltimore, Md.

**PRODUCT:** 148 10-pound boxes of frosted rosefish fillets at Columbia, S. C.

**LABEL, IN PART:** "Pride of Gloucester Frosted Rosefish Fillets Packed by Independent Fish Co. Gloucester, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasites.

**DISPOSITION:** August 10, 1946. The shipper having filed and withdrawn its claim to the product, judgment of condemnation was entered and the product was ordered destroyed.

**9917. Adulteration of frozen rosefish fillets. U. S. v. 745 Cartons of Frozen Rosefish Fillets. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19970. Sample No. 1914-H.)

**LIBEL FILED:** May 31, 1946, Southern District of Georgia.

**ALLEGED SHIPMENT:** On or about May 2, 1946, by the Progressive Fish Wharf, Inc., from Gloucester, Mass.

**PRODUCT:** 745 10-pound cartons of frozen rosefish fillets at Savannah, Ga.

**LABEL, IN PART:** "Pride of Gloucester Frosted Rosefish Fillets Packed by Independent Fish Company Gloucester, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasites.

**DISPOSITION:** June 27, 1946. The Independent Fish Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9918. Adulteration of frozen rosefish fillets. U. S. v. 275 Cartons of Frozen Rosefish Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 19800. Sample No. 9685-H.)

**LIBEL FILED:** April 26, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about April 13, 1946, from Boston, Mass., by the New England Fillet Co.

**PRODUCT:** 275 10-pound cartons of frozen rosefish at Buffalo, N. Y.

**LABEL, IN PART:** "Seacrest Brand Ready to Cook Rosefish Frozen Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9919. Adulteration of smoked salmon. U. S. v. 9,918 Packages of Smoked Salmon. Default decree of condemnation and destruction.** F. D. C. No. 20361. Sample No. 45627-H.)

**LIBEL FILED:** June 24, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about May 25, 27, 28, and 29, 1946, by Carl Stump, from Aberdeen, Wash.

**PRODUCT:** 551 display cards, each containing 18 ½-ounce packages, of smoked salmon at San Francisco, Calif.

**LABEL, IN PART:** "Salmonettes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed salmon.

**DISPOSITION:** July 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9920. Adulteration of canned sardines. U. S. v. 48 Cases of Canned Sardines. Default decree of condemnation and destruction.** (F. D. C. No. 20062 Sample No. 59676-H.)

**LIBEL FILED:** June 6, 1946, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 22, 1946, by the Holmes Packing Corporation, from Eastport, Maine.

**PRODUCT:** 48 cases, each containing 100 tins, of sardines at Pittsburgh, Pa. Examination disclosed the presence of decomposed fish.

**LABEL, IN PART:** "Holmes Brand Net Weight 3¼ Ozs. Maine Sardines Packed in Soy Bean Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** July 2, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9921. Adulteration of canned smoked shad. U. S. v. 12 Cases of Canned Smoked Shad. Default decree of forfeiture and destruction.** (F. D. C. No. 19786. Sample No. 58612-H.)

**LIBEL FILED:** April 30, 1946, District of Idaho.

**ALLEGED SHIPMENT:** On or about March 26, 1946, by the Oregon Food Sales Co., from Portland, Oreg.

**PRODUCT:** 12 cases, each containing 96 3¾-ounce cans, of smoked shad at Boise, Idaho.

**LABEL, IN PART:** "Washington Brand Fancy Smoked Shad \* \* \* Packed By Yaquina Bay Fish Company, Newport, Oregon."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 29, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9922. Adulteration of frozen shrimp. U. S. v. 479 Cartons of Frozen Shrimp. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 20552. Sample Nos. 63502-H, 63503-H.)

**LIBEL FILED:** July 18, 1946, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about May 10, 1946, by Moore's Seafood Co., Inc., from Biloxi, Miss.



**PRODUCT:** 479 cartons, each containing 10 5-pound packages, of frozen shrimp at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** July 23, 1946. Moore's Seafood Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed, or denatured, under the supervision of the Food and Drug Administration.

**9923. Adulteration of frozen shrimp. U. S. v. 2 Boxes of Frozen Shrimp. Default decree of destruction.** (F. D. C. No. 20362. Sample No. 47250-H.)

**LIBEL FILED:** June 24, 1946, District of Utah.

**ALLEGED SHIPMENT:** On or about June 11, 1946, by the Liberty Fish Co., from Galveston, Tex.

**PRODUCT:** 2 boxes, each containing 130 pounds, of frozen shrimp at Salt Lake City, Utah.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** July 26, 1946. No claimant having appeared, judgment was entered ordering the product destroyed.

**9924. Adulteration of frozen whiting. U. S. v. 147 Boxes of Frozen Whiting. Consent decree of condemnation and destruction.** (F. D. C. No. 19289. Sample Nos. 27153-H, 27155-H.)

**LIBEL FILED:** On or about March 13, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about August 25, 1945, by the Pond Village Cold Storage, from Provincetown, Mass.

**PRODUCT:** 147 15-pound boxes of frozen whiting at Denver, Colo.

**LABEL, IN PART:** "H & G Whiting \* \* \* Booth Fisheries Corp. Boston Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

**DISPOSITION:** April 23, 1946. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**9925. Adulteration of frozen H & G Whiting and frozen Round Whiting. U. S. v. 39 Boxes of Frozen H & G Whiting and 35 Boxes of Frozen Round Whiting. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19508, 19693. Sample Nos. 6849-H, 6850-H, 63210-H, 63221-H.)

**LIBELS FILED:** April 10 and 22, 1946, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 1 and September 13, 1945, by C. G. Wadman and Co., from Provincetown, Mass.

**PRODUCT:** 39 boxes containing approximately 6,300 pounds of frozen H & G Whiting and 35 boxes containing approximately 5,444 pounds of frozen Round Whiting at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of putrid and decomposed substances by reason of the presence of putrid and decomposed fish.

**DISPOSITION:** May 7 and 8, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

## FRUITS AND VEGETABLES\*

### CANNED, DRIED, AND FROZEN FRUITS

**9926. Adulteration of canned apples. U. S. v. 19 Cases of Canned Apples. Default decree of condemnation and destruction.** (F. D. C. No. 19861. Sample No. 52721-H.)

**LIBEL FILED:** May 14, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 13, 1945, by A. H. Renehan and Son, Sykesville, Md.

**PRODUCT:** 19 cases, each containing 6 6-pound, 8-ounce cans, of apples at Akron, Ohio. Examination showed that the product was undergoing chemical decomposition, resulting in darkening and the production of hydrogen sulfide.

\*See also Nos. 9804, 9805.

**LABEL, IN PART:** "Patapsco Brand Apples."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9927. Adulteration of strained peaches. U. S. v. 41 Dozen Cans of Strained Peaches (and 3 seizure actions against other lots of the same product). Default decrees of condemnation and destruction.** (F. D. C. Nos. 19858, 19859, 19897, 20029. Sample Nos. 5278-H, 35727-H, 59653-H, 59654-H.)

**LIBELS FILED:** May 8, 9, and 21, 1946, Eastern and Western Districts of Pennsylvania, Northern District of Ohio, and Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 20 and 23, 1945, and March 6 and 7, 1946, by Harold H. Clapp, Inc., from Rochester, N. Y.

**PRODUCT:** Strained peaches. 41 dozen cans at Youngstown, Ohio, 465 dozen cans at Sharon, Pa., 2,898 dozen cans at Philadelphia, Pa., and 60 dozen cans at St. Louis, Mo.

**LABEL, IN PART:** (Can) "Clapp's Strained Baby Foods Strained Peaches Slightly Sweetened with Sugar Net Weight 4½ Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments.

**DISPOSITION:** June 7 and 17, August 15, and September 4, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9928. Misbranding of canned fruit cocktail. U. S. v. 128 Cases of Canned Fruit Cocktail. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19943. Sample No. 46207-H.)

**LIBEL FILED:** May 21, 1946, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 26, 1946, by Frank M. Wilson Co., Inc., from Stockton, Calif.

**PRODUCT:** 128 cases, each containing 6 6-pound, 12-ounce cans, of fruit cocktail at Somerville, Mass. The product contained 65.5 percent of diced peaches, 20 percent of diced pears, 4.6 percent of pineapple sectors, and 1.1 percent of halved cherries. The standard for fruit cocktail provides that it contain not more than 50 percent of diced peaches, not less than 25 percent of diced pears, not less than 6 percent of pineapple cut into sectors or diced, and not less than 2 percent of one of the optional cherry ingredients.

**LABEL, IN PART:** "California's Golden Brand Fruit Cocktail."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard for fruit cocktail.

**DISPOSITION:** July 10, 1946. The George D. Emerson Co., Somerville, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9929. Adulteration of dates. U. S. v. 49 Boxes of Dates. Default decree of condemnation and destruction.** (F. D. C. No. 19843. Sample Nos. 32116-H, 32118-H.)

**LIBEL FILED:** May 7, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about November 13 and 15, 1945, by M. L. Reid, from Yuma, Ariz.

**PRODUCT:** 49 boxes, each containing 15 pounds, of dates at Los Angeles, Calif.

**LABEL, IN PART:** "Desert Dawn Fresh Dates."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles.

**DISPOSITION:** May 31, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9930. Adulteration of dried figs. U. S. v. 131 Cases of Figs. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19865. Sample Nos. 58127-H, 58134-H.)

**LIBEL FILED:** May 10, 1946, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 30, 1946, by the Merzoian Packing Co., from Fresno, Calif.



**PRODUCT:** 131 cases, each containing 60 pounds, of figs at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and decomposed figs.

**DISPOSITION:** July 12, 1946. The Merzoian Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for fermentation and distillation under the supervision of the Food and Drug Administration.

**9931. Adulteration of dried prunes. U. S. v. 53 Bags of Dried Prunes. Default decree of destruction. (F. D. C. No. 19855. Sample No. 37976-H.)**

**LIBEL FILED:** On May 10, 1946, District of Idaho.

**ALLEGED SHIPMENT:** On or about February 15, 1946, by Gholson and Gholson, from Springbrook, Oreg.

**PRODUCT:** 53 80-pound bags of dried prunes at Lewiston, Idaho.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, insect fragments, and rotten prunes; and, Section 402 (a) (4), it had been packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 23, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9932. Adulteration of raisins. U. S. v. 943 Cases and 2,565 Cases of Raisins. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 19844. Sample Nos. 53007-H, 53008-H.)**

**LIBEL FILED:** May 8, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 30 and December 7, 1945, by the Rosenberg Brothers Co., from San Francisco, Calif.

**PRODUCT:** 943 cases and 2,565 cases, each containing 30 pounds, of raisins at Sandusky, Ohio, in the possession of Hoenshel Fine Foods, Inc. The 943-case lot was stored under insanitary conditions after shipment. Some of the cases were rodent-gnawed, and rodent excreta was observed on and in the cases. Examination of the product showed the presence of rodent excreta, rodent hair fragments, and insects. Samples of the 2,565-case lot were found to contain insects and insect fragments.

**LABEL, IN PART:** (Portion) "Ensign Brand Fancy Seeded Muscat Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), a portion of the product had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 31, 1946. Hoenshel Fine Foods, Inc., claimant, having admitted that some of the raisins were adulterated, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9933. Adulteration of raisins. U. S. v. 300 Cartons of Raisins (and 2 other seizure actions against raisins). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 19919, 19920, 19922. Sample No. 46522-H.)**

**LIBELS FILED:** May 13 and 16, 1946, District of New Jersey and Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 1, 1946, by the El Encanto Vineyards, from Fresno, Calif.

**PRODUCT:** 1,025 30-pound cartons of raisins at New York, N. Y., and 300 30-pound cartons of the same product at Newark, N. J.

**LABEL, IN PART:** "Cal-Ray Choice Thompson Seedless Raisins Packed By El Mar Packing Co. Fresno, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of moldy raisins.

**DISPOSITION:** June 17 and 24, 1946. The El Encanto Vineyards, claimant, having admitted the allegations of the libels, judgments of condemnation were



entered and the product was ordered released under bond to be used in the manufacture of distilled spirits, under the supervision of the Food and Drug Administration.

**9934. Adulteration of raisins. U. S. v. 570 Boxes of Raisins. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19680. Sample No. 56867-H.)**

**LIBEL FILED:** April 24, 1946, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about December 18, 1945, by H. Hall, from Del Rey, Calif.

**PRODUCT:** 570 boxes, each containing 30 pounds, of raisins at Providence, R. I.

**LABEL, IN PART:** "Del Cara Brand Thompson Seedless Raisins Packed By Central California Packing Co. Del Rey, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed raisins.

**DISPOSITION:** May 13, 1946. The Central California Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**9935. Adulteration of raisins. U. S. v. 38 Cases and 142 Cases of Raisins. Consent decrees ordering product released under bond. (F. D. C. Nos. 19952, 19953. Sample Nos. 5061-H, 5062-H, 45465-H.)**

**LIBELS FILED:** May 23, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 7, 1946, by C. F. Bonsor and Co., Inc., from Philadelphia, Pa.

**PRODUCT:** 180 30-pound cases of raisins at Atlantic City, N. J.

**LABEL, IN PART:** "Sun Nugget Golden Bleached Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed raisins.

**DISPOSITION:** July 2, 1946. The Boothe Fruit Co., Modesto, Calif., claimant, having admitted the allegations of the libels, judgments were entered ordering the product released under bond for fermentation and distillation under the supervision of the Food and Drug Administration.

**9936. Adulteration of frozen blackberries. U. S. v. 510 Cases, 139 Cans, 7 Drums, and 103 Tins of Frozen Blackberries. Default decree of condemnation and destruction. (F. D. C. No. 20256. Sample Nos. 44290-H, 44292-H.)**

**LIBEL FILED:** On or about June 19, 1946, District of Arizona.

**ALLEGED SHIPMENT:** On or about April 16, 1946, by the Houdson Refrigerating Co., Jersey City, N. J.

**PRODUCT:** 510 cases, each containing 28 2-pound boxes, 139 unlabeled 5-gallon cans, 7 unlabeled 50-gallon drums, and 103 unlabeled 30-pound tins of frozen blackberries at Phoenix, Ariz.

**LABEL, IN PART:** (Boxes) "Garden Fresh Foods," or "Fresh Frozen Blackberries \* \* \* Southland Products Co. N. Y., N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9937. Adulteration of frozen strawberries. U. S. v. 1,666 Tins of Frozen Strawberries. Default decree of condemnation and destruction. (F. D. C. No. 20255. Sample No. 30687-H.)**

**LIBEL FILED:** June 13, 1946, District of Arizona.

**ALLEGED SHIPMENT:** On or about May 8, 1946, by the D. W. King Co., from Montgomery, Ala.

**PRODUCT:** 1,666 30-pound tins of frozen strawberries at Phoenix, Ariz.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold.

**DISPOSITION:** August 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



## MISCELLANEOUS FRUIT PRODUCTS

**9938. Adulteration and misbranding of wine vinegar. U. S. v. Evaristo Barbero (E. Barbero). Plea of guilty. Fine, \$101. (F. D. C. No. 20155. Sample Nos. 5947-H, 5959-H.)**

**INFORMATION FILED:** July 22, 1946, District of New Jersey, against Evaristo Barbero, trading as E. Barbero, Union City, N. J.

**ALLEGED SHIPMENT:** On or about October 7, 1944, from the State of New Jersey into the State of New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an artificially colored mixture of wine vinegar and distilled vinegar had been substituted for pure wine vinegar; Section 402 (b) (3), the product was inferior to pure wine vinegar, and its inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), distilled vinegar had been mixed and packed with the product so as to reduce its quality and strength, and artificial color had been mixed and packed with the article so as to make it appear to be wine vinegar, a product which is better and of greater value.

Misbranding, Section 403 (a), the label statement "Pure Wine Vinegar" was false and misleading.

**DISPOSITION:** August 5, 1946. A plea of guilty having been entered, the defendant was fined \$101.

**9939. Adulteration of apple pomace. U. S. v. 70 Bags of Apple Pomace. Default decree of condemnation and destruction. (F. D. C. No. 19752. Sample No. 1836-H.)**

**LIBEL FILED:** May 6, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about April 17, 1945, by the C. H. Musselman Co., from Biglerville, Pa.

**PRODUCT:** 70 bags, each containing 50 to 60 pounds, of apple pomace at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insects, insect fragments, and insect excreta.

**DISPOSITION:** June 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9940. Adulteration of strawberry puree. U. S. v. 99 Cans of Strawberry Puree (and 3 other seizure actions against strawberry puree). Default decrees of condemnation and destruction. (F. D. C. Nos. 20313 to 20315, incl. Sample Nos. 5328-H, 65321-H, 65333-H, 65334-H.)**

**LIBELS FILED:** On or about June 28 and July 1 and 8, 1946, Eastern District of Pennsylvania and District of New Jersey.

**ALLEGED SHIPMENT:** Between the approximate dates of April 13 and May 3, 1946, by the Breyer Ice Cream Co., from Plant City, Fla.

**PRODUCT:** 504 50-pound cans of strawberry puree at Philadelphia, Pa., and 203 50-pound cans of the same product at Haddonfield, N. J.

**LABEL, IN PART:** "Kruse's Inc. of Florida, Plant City, Florida Cold Processed Strawberry Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material.

**DISPOSITION:** August 9 and 14, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9941. Adulteration of strawberry puree. U. S. v. 54 Cans and 190 Cans of Strawberry Puree. Default decree of condemnation and destruction. (F. D. C. No. 20322. Sample Nos. 63722-H, 63723-H.)**

**LIBEL FILED:** July 5, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 15 and 16, 1946, by the Brown Packing Co., from Plant City, Fla.

**PRODUCT:** 244 55-pound cans of strawberry puree at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material.

**DISPOSITION:** August 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



## VEGETABLES AND VEGETABLE PRODUCTS

**9942. Adulteration of canned artichoke pulp. U. S. v. San Martin Canning Company. Plea of guilty. Fine, \$100. (F. D. C. No. 20148. Sample No. 29789-H.)**

**INFORMATION FILED:** July 18, 1946, Northern District of California, against the San Martin Canning Co., a partnership, San Martin, Calif.

**ALLEGED SHIPMENT:** On or about June 20, 1945, from the State of California into the State of Massachusetts.

**LABEL, IN PART:** "Pony Brand Artichoke Cream Pulp \* \* \* Packed by Bottled Pure Juice Company, Campbell, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance in that it had undergone chemical decomposition, and it was otherwise unfit for food by having acquired a metallic, astringent taste.

**DISPOSITION:** August 6, 1946. A plea of guilty having been entered, the defendant was fined \$100.

**9943. Adulteration of dried beans. U. S. v. 10 Bags of Dried Beans. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 19737. Sample No. 65201-H.)**

**LIBEL FILED:** May 1, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about January 26, 1946, by Rowe and Kennedy, Inc., from Canaseraga, N. Y.

**PRODUCT:** 10 100-pound bags of dried beans at Philadelphia, Pa.

**LABEL, IN PART:** "New York State Grown Choice Hand Picked Eatmore Quality Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy beans.

**DISPOSITION:** July 26, 1946. Rowe and Kennedy, Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

**9944. Adulteration of canned pinto beans. U. S. v. 485 Cases of Canned Pinto Beans (and 2 other seizure actions against canned pinto beans). Default decrees of condemnation. One lot ordered delivered to a Federal institution, for use as hog feed; remaining lots ordered delivered to a charitable institution. (F. D. C. Nos. 19774 to 19776, incl. Sample Nos. 47607-H, 47613-H, 47614-H.)**

**LIBELS FILED:** April 22 and 24, 1946, Western District of Texas.

**ALLEGED SHIPMENT:** On or about February 7 and 26 and March 7, 1946, by the Domingo Packing Co., Albuquerque, N. Mex.

**PRODUCT:** 1,570 cases, each containing 24 1-pound, 4-ounce cans, of pinto beans at El Paso, Tex. Examination showed that 200 cases were undergoing bacterial decomposition, and that the remainder of the product contained stones.

**LABEL, IN PART:** "Domingo Pinto Beans In Chili Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (200 cases) the product consisted in whole or in part of a decomposed substance; Section 402 (b) (2), (1,370 cases) stones had been substituted in whole or in part for pinto beans; and, Section 402 (b) (4), stones had been packed with the product so as to reduce its quality.

**DISPOSITION:** June 25 and July 23, 1946. No claimant having appeared, judgments of condemnation were entered and the 200 cases containing the decomposed substance were ordered delivered to a Federal institution, for use as hog feed, and the remaining lots were ordered delivered to charitable institutions.

**9945. Adulteration of canned pork and beans. U. S. v. 228 Cases of Canned Pork and Beans. Default decree of destruction. (F. D. C. No. 19820. Sample No. 14364-H.)**

**LIBEL FILED:** May 3, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 21, 1945, by the Illinois Canning Co., Hoopeston, Ill.

**PRODUCT:** 228 cases, each containing 24 1-pound, 3-ounce cans, of pork and beans at Cincinnati, Ohio. Examination showed that the product was sour.



**LABEL, IN PART:** "Joan of Arc Pork and Beans With Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 19, 1946. No claimant having appeared, judgment was entered ordering the product destroyed.

**9946. Adulteration of canned string beans. U. S. v. 244 Cases of Canned String Beans. Default decree of condemnation and destruction. (F. D. C. No. 19937. Sample No. 65311-H.)**

**LIBEL FILED:** May 17, 1946, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 13, 1943, by the Phillips Sales Co., Inc., from Cambridge, Md.

**PRODUCT:** 244 cases, each containing 24 1-pound, 3-ounce cans, of string beans at Philadelphia, Pa.

**LABEL, IN PART:** "Choptank Stringless Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9947. Adulteration of canned bean sprouts. U. S. v. 20 Cases of Canned Bean Sprouts. Default decree of condemnation and destruction. (F. D. C. No. 20399. Sample No. 40433-H.)**

**LIBEL FILED:** On or about July 19, 1946, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about December 21, 1945, by La Choy Food Products, Division of Beatrice Creamery, Archbold, Ohio.

**PRODUCT:** 20 cases, each containing 6 6-pound cans, of bean sprouts at Granite City, Ill.

**LABEL, IN PART:** "La Choy Bean Sprouts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 14, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9948. Adulteration of canned cut beets. U. S. v. 37 Cases of Canned Cut Beets. Default decree of condemnation and destruction. (F. D. C. No. 19750. Sample No. 65304-H.)**

**LIBEL FILED:** On or about May 8, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 9, 1945, by George S. Washington and Sons, from Philadelphia, Pa.

**PRODUCT:** 37 cases, each containing 24 1-pound, 4-ounce cans, of cut beets at Atlantic City, N. J.

**LABEL, IN PART:** "Burns Cut Beets \* \* \* Packed by Alton Canning Company, Inc. Alton, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9949. Misbranding of canned mushrooms. U. S. v. 7 Cases of Canned Mushrooms. Default decree of condemnation. Product ordered delivered to a charitable organization. (F. D. C. 20273. Sample No. 65509-H.)**

**LIBEL FILED:** On or about July 2, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 20, 1946, by Food Fair, Incorporated, from Philadelphia, Pa.

**PRODUCT:** 7 cases, each containing 24 4-ounce cans, of mushrooms at Collingswood, N. J.

**LABEL, IN PART:** "Mushrooms Fancy Buttons Quaker State Brand \* \* \* Grown and Packed by J. B. Swayne & Son Kennett Square, Pennsylvania."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label designation "Mushrooms Fancy Buttons" and the vignette depicting fancy button mushrooms were false and misleading since the product was not fancy button mushrooms by reason of excessively long stems and spotted or dark units.

**DISPOSITION:** August 23, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable organization after the destruction of the labels.

**9950. Adulteration of canned mustard greens. U. S. v. 116 Cases of Canned Mustard Greens. Default decree of condemnation and destruction. (F. D. C. No. 19866. Sample No. 47836-H.)**

**LIBEL FILED:** May 14, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about March 13, 1946, by the Alma Canning Co., Alma, Ark.

**PRODUCT:** 116 cases, each containing 24 1-pound, 2-ounce cans, of mustard greens at Denver, Colo.

**LABEL, IN PART:** "Clear Sailing Mustard Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids.

**DISPOSITION:** July 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9951. Adulteration of canned mustard greens. U. S. v. 60 Cases and 34 Cases of Canned Mustard Greens. Decrees of condemnation. Product ordered destroyed. (F. D. C. Nos. 19793, 19872. Sample Nos. 47839-H, 47921-H.)**

**LIBELS FILED:** May 2 and 14, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about March 4, 1946, by the Sallisaw Canning Co., from Sallisaw, Okla.

**PRODUCT:** 94 cases, each containing 24 1-pound, 2-ounce cans, of mustard greens at Denver, Colo.

**LABEL, IN PART:** "Sallisaw Brand Mustard Greens"; [some cans incorrectly labeled] "Sallisaw Brand Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids and larvae.

**DISPOSITION:** June 18 and July 12, 1946. No appearance or claim having been entered for either lot, judgments of condemnation were entered and the product was ordered destroyed.

Nos. 9952 to 9959 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality fell below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

**9952. Misbranding of canned peas. U. S. v. John S. Mitchell, Inc. Plea of guilty. Fine, \$200. (F. D. C. No. 20140. Sample Nos. 35030-H, 35039-H, 35040-H.)**

**INFORMATION FILED:** July 10, 1946, Southern District of Indiana, against John S. Mitchell, Inc., a corporation, Windfall, Ind.

**ALLEGED SHIPMENT:** On or about November 16, 1945, from the State of Indiana into the State of Arkansas.

**LABEL, IN PART:** "Sales Brand Early June Peas Packed for Empire Distributing Company St. Louis, Mo."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** August 9, 1946. A plea of guilty having been entered, the court imposed a fine of \$200.

**9953. Misbranding of canned peas. U. S. v. Woods Cross Canning Co. Plea of guilty. Fine, \$100. (F. D. C. No. 17792. Sample Nos. 26604-H, 32485-H, 32943-H.)**

**INFORMATION FILED:** March 15, 1946, District of Utah, against the Woods Cross Canning Co., a corporation, Clearfield, Utah.

**ALLEGED SHIPMENT:** Between the approximate dates of December 19, 1944, and August 24, 1945, from the State of Utah into the States of Colorado, California, and Montana.

**LABEL, IN PART:** "Clearfield Brand Sweet Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h), the product in all of the shipments was substandard in quality because of failure to meet the require-



ments of the standard with respect to freedom from tough peas; 2 of the 3 lots were further substandard in quality because they contained in excess of 21 percent of alcohol-insoluble solids, the maximum permitted by the standard for canned sweet peas.

DISPOSITION: May 14, 1946. A plea of guilty having been entered, a fine of \$100 was imposed.

**9954. Misbranding of canned peas. U. S. v. 574 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 20027. Sample No. 59650-H.)**

**LIBEL FILED:** May 22, 1946, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 2, 1945, by the Stokely Canning Co., Inc., from Norwalk, Ohio.

**PRODUCT:** 574 cases, each containing 24 1-pound, 4-ounce cans, of peas, at Greensburg, Pa.

**LABEL, IN PART:** "Our Favorite Brand Sifted Early Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** June 19, 1946. Stokely-Van Camp, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9955. Misbranding of canned peas. U. S. v. 418 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19798. Sample No. 14362-H.)**

**LIBEL FILED:** April 30, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 1, 1945, by Campbell Holton and Co., Bloomington, Ill.

**PRODUCT:** 418 cases, each containing 24 1-pound, 4-ounce cans, of peas at Cambridge, Ohio.

**LABEL, IN PART:** "Camel Brand Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** June 11, 1946. The Walter English Co., Columbus, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9956. Misbranding of canned peas. U. S. v. 276 Cases of Canned Peas. Consent decree of forfeiture. Product ordered released under bond. (F. D. C. No. 20600. Sample No. 53033-H.)**

**LIBEL FILED:** July 31, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 12, 1944, by the Elkhart Lake Canning Co., from Elkhart Lake, Wis.

**PRODUCT:** 276 cases, each containing 24 1-pound, 4-ounce cans, of peas at Cleveland, Ohio.

**LABEL, IN PART:** "Myrna Brand Extra Sifted Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** August 27, 1946. The Elkhart Lake Canning Company, claimant, having admitted the allegations of the libel, judgment of forfeiture was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9957. Misbranding of canned peas. U. S. v. 93 Cases and 129 Cases of Canned Peas. Default decree of condemnation. Product ordered sold. (F. D. C. No. 19862. Sample Nos. 51150-H, 51151-H.)**

**LIBEL FILED:** May 10, 1946, District of North Dakota.

**ALLEGED SHIPMENT:** On or about November 9, 1945, by the St. Cloud Products Association, St. Cloud, Minn.

**PRODUCT:** 222 cases, each containing 24 1-pound, 4-ounce cans, of peas at Grand Forks, N. Dak.

**LABEL, IN PART:** "Granite City Brand \* \* \* Minnesota Early June Peas," or "Golden Valley Early June Peas."



**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** July 18, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold as substandard peas. The proceeds of the sale were to be paid to the Treasurer of the United States.

**9958. Misbranding of canned peas. U. S. v. 150 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20271. Sample No. 40662-H.)**

**LIBEL FILED:** June 17, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about July 12 and 16, 1945, by the Sycamore Preserve Works, from Sycamore, Ill.

**PRODUCT:** 150 cases, each containing 24 1-pound, 4-ounce cans, of peas at St. Louis, Mo. The product was shipped unlabeled, but it was invoiced as standard peas. No written agreement existed between the shipper and consignee as to the labeling of the article.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (g) (2), it purported to be and was represented as canned peas, a food for which a definition and standard of identity has been prescribed by the regulations, and its label failed to bear the name of the food specified in the definition and standard; and, Section 403 (h) (1), it fell below the standard for an Alaska or other smooth-skin variety of peas since the alcohol-insoluble solids of the peas were more than 23.5 percent, and it was not labeled as substandard.

**DISPOSITION:** July 8, 1946. The General Grocer Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9959. Misbranding of canned peas. U. S. v. 28 Cases of Canned Peas. Default decree of forfeiture and destruction. (F. D. C. No. 20070. Sample No. 52919-H.)**

**LIBEL FILED:** On or about June 10, 1946, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about August 28, 1945, by the Eavey Co., from Xenia, Ohio.

**PRODUCT:** 28 cases, each containing 24 1-pound, 4-ounce cans, of peas at Richmond, Va.

**LABEL, IN PART:** "Cu-Pee Brand Medium Size Early June Peas Packed by Winchester Canning Company, Canal Winchester, Ohio."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard.

**DISPOSITION:** July 12, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9960. Misbranding of canned peas. U. S. v. 135 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19771. Sample No. 65016-H.)**

**LIBEL FILED:** August 12, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 19, 1945, by Swinger and Binenstock, from Philadelphia, Pa.

**PRODUCT:** 135 cases, each containing 24 1-pound, 4-ounce cans, of peas at Trenton, N. J. The product was shipped unlabeled, and labels were applied by the dealer after receipt of the shipment. No written agreement existed between the shipper and consignee as to the labeling of the article.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the product was canned peas, a food for which a definition and standard of identity has been prescribed by regulation, and the label failed to bear the name of the food specified in the definition and standard.



**DISPOSITION:** August 12, 1946. The Italo American Grocery Co., Trenton, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**9961. Adulteration of dried green peas. U. S. v. 339 Bags of Dried Green Peas. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19836. Sample Nos. 46849-H, 46850-H.)

**LIBEL FILED:** May 10, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about February 21 and March 16, 1946, by the McDonnell Seed Co., from Spokane, Wash.

**PRODUCT:** 339 100-pound bags of dried green peas at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils.

**DISPOSITION:** June 10, 1946. The Taylor-Walcott Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock or poultry feed, under the supervision of the Federal Security Agency.

**9962. Adulteration and misbranding of sauerkraut. U. S. v. 6 Cases and 3 Cases of Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 19978. Sample No. 63412-H.)

**LIBEL FILED:** May 29, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 23, 1945, and January 24, 1946, by the Hungarian Pickle Products Co., from Brooklyn, N. Y.

**PRODUCT:** 6 cases, each containing 12 jars, and 3 cases, each containing 4 jars, of sauerkraut at Paterson, N. J. Some of the containers of the product were 36-ounce jars, and the remainder were gallon jars. All were labeled "1 Fl. Quart." The jars contained, respectively, an average of 22.97 ounces and 77.72 ounces, avoirdupois, of drained kraut. Such size containers should hold, respectively, a minimum of 28 ounces and 100 ounces, avoirdupois, of drained kraut.

**LABEL, IN PART:** "L and B Quality Sauerkraut."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), brine had been substituted in part for Sauerkraut.

Misbranding, Section 403 (d), the containers were so filled as to be misleading since, because of the tendency of sauerkraut to disperse in the liquid packing medium, the jars appeared to contain more sauerkraut than was actually the case; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** August 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9963. Adulteration of canned sauerkraut. U. S. v. 402 Cases of Canned Sauerkraut. Default decree of condemnation and destruction.** (F. D. C. No. 20376. Sample No. 52459-H.)

**LIBEL FILED:** June 28, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 31, 1946, by the Mayfair Food Products Co., Chicago, Ill.

**PRODUCT:** 402 cases, each containing 6 5-pound cans, of sauerkraut at Cincinnati, Ohio.

**LABEL, IN PART:** "Barbara Lee Sauer Kraut."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 7, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9964. Misbranding of canned sauerkraut. U. S. v. 97 Cases of Canned Sauerkraut. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 19706. Sample No. 1720-H.)

**LIBEL FILED:** April 25, 1946, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about January 28, 1946, by the North State Canning Co., Inc., from Boone, N. C.



**PRODUCT:** 97 cases, each containing 24 1-pound, 11-ounce cans, of sauerkraut at Greenville, S. C.

**LABEL, IN PART:** "Watauga Aunt Cindy's Fancy Shredded Kraut."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Fancy Shredded Kraut" was false and misleading because the article was not "Fancy," since the color was not uniform, the cabbage leaves were so cut that they were irregular and choppy, and the texture was not firm or crisp.

**DISPOSITION:** June 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9965. Adulteration of canned turnip greens. U. S. v. 104 Cases and 113 Cases of Canned Turnip Greens. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19678, 19891. Sample Nos. 1192-H, 54303-H.)

**LIBELS FILED:** April 18 and May 9, 1946, Middle and Western Districts of North Carolina.

**ALLEGED SHIPMENT:** On or about January 8, 1946, by the South Atlantic Canning Co., Inc., from Charleston and Mount Pleasant, S. C.

**PRODUCT:** 104 cases at Salisbury, N. C., and 113 cases at Charlotte, N. C., each case containing 24 1-pound, 2-ounce cans, of turnip greens.

**LABEL, IN PART:** "I-Dine Brand \* \* \* Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of large insects known as "stink bugs."

**DISPOSITION:** June 20 and 25, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9966. Misbranding of mixed vegetables. U. S. v. 349 Cases of Mixed Vegetables. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19936. Sample No. 2999-H.)

**LIBEL FILED:** May 16, 1946, District of Columbia.

**ALLEGED SHIPMENT:** On or about February 8, 1946, by Charles G. Summers, Jr., Inc., from New Freedom, Pa.

**PRODUCT:** 349 cases, each containing 24 1-pound, 4-ounce cans, of mixed vegetables at Washington, D. C.

**LABEL, IN PART:** "Superfine \* \* \* Brand Fancy Mixed Vegetables [vignette of a dish of mixed vegetables]."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the vignette on the label showed a dish of mixed vegetables including corn and lima beans, and the words "Corn" and "Lima Beans," which appeared in the list of ingredients on the label, were false and misleading since the article contained no corn or lima beans; the vignette, which showed very few carrots, was misleading since carrots predominated in the article; and the label designation "Fancy" was false and misleading as applied to a product which was not fancy quality, because of the presence in the product of scrap vegetables, most of which consisted of small pieces of carrots.

**DISPOSITION:** June 10, 1946. Charles G. Summers, Jr., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

#### TOMATOES AND TOMATO PRODUCTS

**9967. Adulteration of canned tomato catsup. U. S. v. 421 Cases of Tomato Catsup. Default decree of condemnation and destruction.** (F. D. C. No. 20388. Sample No. 46231-H.)

**LIBEL FILED:** July 9, 1946, Northern District of California.

**ALLEGED SHIPMENT:** On or about May 8, 1946, by Kushner and Co., from New York, N. Y.

**PRODUCT:** 421 cases, each containing 6 6-pound, 9-ounce cans, of tomato catsup at Sacramento, Calif. Examination showed the presence of decomposed tomato material.

**LABEL, IN PART:** "Dale Brand Tomato Catsup \* \* \* Packed by Orleans County Canning Co., Barre Center, N. Y."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9968. Adulteration of tomato catsup. U. S. v. 15 Cases of Tomato Catsup. Default decree of condemnation and destruction.** (F. D. C. No. 20378. Sample No. 15355-H.)

**LIBEL FILED:** July 2, 1946, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about March 9 and 15, 1946, by the Indiana Wholesale Food Supply Corporation, from Gary, Ind.

**PRODUCT:** 15 cases, each containing 24 14-ounce bottles, of tomato catsup at Racine, Wis.

**LABEL, IN PART:** "Jackson Brand Tomato Catsup \* \* \* Packed by Morgan Packing Company, Austin, Indiana."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** August 6, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9969. Adulteration of tomato juice. U. S. v. Roger H. Denbo (R. H. Denbo Canning Co.). Plea of guilty. Fine, \$325 and costs, and probation for 1 year.** (F. D. C. No. 20434. Sample Nos. 39405-H, 39406-H, 39411-H, 39413-H.)

**INFORMATION FILED:** June 20, 1946, Northern District of Indiana, against Roger H. Denbo, trading as the R. H. Denbo Canning Co., Roanoke, Ind.

**ALLEGED SHIPMENT:** On or about September 23 and 24 and October 3, 1945, from the State of Indiana into the State of Illinois of quantities of unlabeled canned tomato juice.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 9, 1946. A plea of guilty having been entered, the court imposed a fine of \$100 on each of counts 1, 2, and 3, plus costs, and placed the defendant on probation for a period of 1 year, without sentence, on count 4 of the information.

**9970. Adulteration of tomato juice. U. S. v. 415 Cases of Tomato Juice. Default decree ordering product denatured or destroyed.** (F. D. C. No. 19794. Sample Nos. 51307-H, 51308-H.)

**LIBEL FILED:** April 27, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 23, 1946, by the Bortz-Sakowitz Co., from Indianapolis, Ind.

**PRODUCT:** 415 cases, each containing 24 1-pint, 2-ounce cans, of tomato juice at Minneapolis, Minn.

**LABEL, IN PART:** "Hartley's Brand Tomato Juice Packed By Hartley & Sons Canning Co., Elwood, Ind."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed tomato material.

**DISPOSITION:** August 5, 1946. No claimant having appeared, judgment was entered ordering the product denatured for use as animal feed, under the supervision of the Food and Drug Administration; otherwise the product was to be destroyed.

**9971. Misbranding of tomato juice. U. S. v. 49 Cases of Tomato Juice. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 19784. Sample Nos. 35189-H, 35190-H.)

**LIBEL FILED:** April 24, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 24, 1945, by the Limberlost Canning Corporation, from Geneva, Ind.

**PRODUCT:** 49 cases, each containing 12 cans, of tomato juice at St. Louis, Mo. Examination showed that the product was short-volume.

**LABEL, IN PART:** (Can) "Lady Geneva Brand Tomato Juice Contents 1 Qt. 14 Fl. Oz."



**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** May 22, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9972. Adulteration of canned tomato paste. U. S. v. 71 Cases and 275 Cases of Canned Tomato Paste. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19968, 19969. Sample No. 45591-H.)

**LIBELS FILED:** May 28, 1946, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about April 22, 1946, by the Matmor Canning Co., Inc., from Woodland, Calif.

**PRODUCT:** 346 cases, each containing 6 7-pound cans, of tomato paste at Miami, Fla.

**LABEL, IN PART:** "Contadina Fancy Tomato Paste \* \* \* Packed By Hershel California Fruit Products Company San Jose, Cal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance since it was undergoing progressive spoilage.

**DISPOSITION:** August 19, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9973. Adulteration of canned tomato paste. U. S. v. 13 Cases of Tomato Paste. Default decree of condemnation and destruction.** (F. D. C. No. 20069. Sample No. 45539-H.)

**LIBEL FILED:** June 6, 1946, District of Nevada.

**ALLEGED SHIPMENT:** On or about April 2, 1946, by the California Conserving Co., from Hayward, Calif.

**PRODUCT:** 13 cases, each containing 100 6-ounce cans, of tomato paste at Reno, Nev.

**LABEL, IN PART:** "C-H-B California Tomato Paste."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9974. Adulteration of canned tomato puree. U. S. v. 432 Cases of Canned Tomato Puree. Default decree of forfeiture and destruction.** (F. D. C. No. 19880. Sample No. 50970-H.)

**LIBEL FILED:** May 16, 1946, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about January 14, 1946, by the Finer Foods Packing Corporation, Terre Haute, Ind.

**PRODUCT:** 432 cases, each containing 6 cans, of tomato puree at Barron, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** August 1, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9975. Adulteration of canned tomato puree. U. S. v. 299 Cases and 40 Cases of Tomato Puree. Default decrees of condemnation and destruction.** (F. D. C. Nos. 19749, 19753. Sample Nos. 9140-H, 63381-H.)

**LIBELS FILED:** May 6, 1946, Southern and Eastern Districts of New York.

**ALLEGED SHIPMENT:** On or about November 21, 1945, by the San Jose Canning Co., San Jose, Calif.

**PRODUCT:** Tomato puree. 299 cases at New York, N. Y., and 40 cases at Brooklyn, N. Y. Each case contained 24 1-pound, 12-ounce cans.

**LABEL, IN PART:** "Redpack Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 21 and June 5, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.



**9976. Misbranding of canned tomato puree. U. S. v. 43 Cases of Tomato Puree. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 20081. Sample No. 35726-H.)**

**LIBEL FILED:** June 10, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 14, 1945, by the Sun Garden Packing Co., from San Jose, Calif.

**PRODUCT.** 43 cases, each containing 24 cans, of tomato puree at St. Louis, Mo. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Blue Bow Tomato Puree Contents 1 Lb. 12 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** July 8, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**9977. Adulteration of tomato sauce. U. S. v. 497 Cases of Tomato Sauce. Default decree of condemnation and destruction. (F. D. C. No. 20068. Sample No. 46304-H.)**

**LIBEL FILED:** June 7, 1946, District of Nevada.

**ALLEGED SHIPMENT:** On or about April 16 and 18, 1946, by Hunt Foods, Inc., from Hayward, Calif.

**PRODUCT:** 497 cases, each containing 72 8-ounce cans, of tomato paste at Reno, Nev.

**LABEL, IN PART:** "Hunt's Supreme Quality Fancy Spanish Style Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9978. Adulteration of tomato sauce. U. S. v. 20 Cases of Tomato Sauce. Default decree of condemnation and destruction. (F. D. C. No. 20267. Sample No. 45805-H.)**

**LIBEL FILED:** June 17, 1946, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about May 27, 1946, by R. Vannucci and Sons, from San Francisco, Calif.

**PRODUCT:** 20 cases, each containing 72 8-ounce cans, of tomato sauce at Lexington, Ky.

**LABEL, IN PART:** "Hunt's Supreme Quality Fancy Spanish Style Tomato Sauce \* \* \* Packed by Hunt Foods Inc. \* \* \* San Francisco Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## NUTS AND NUT PRODUCTS\*

**9979. Adulteration of almonds. U. S. v. 11 Bags of Almonds. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19873. Sample Nos. 52931-H, 52932-H.)**

**LIBEL FILED:** May 15, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 9 and July 3, 1945, by the H. A. Johnson Co., from New York, N. Y.

**PRODUCT:** 11 220-pound bags of almonds at Dayton, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets and rodent hairs.

**DISPOSITION:** June 12, 1946. The Maude Muller Candy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the nuts

\*See also Nos. 9833, 9851.



be hand-picked to remove those showing evidence of rodent gnawing, after which the remainder of the nuts were to be washed, under the supervision of the Food and Drug Administration.

**9980. Adulteration of peanuts. U. S. v. 36 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20375. Sample No. 53306-H.)**

**LIBEL FILED:** June 28, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 29, 1946, from Norfolk, Va.

**PRODUCT:** 36 bags containing approximately 4,000 pounds of peanuts at Cincinnati, Ohio, in the possession of the George E. Pellens Co. The product was stored under insanitary conditions after shipment. Rodent excreta was observed on the peanuts, and examination showed that the product contained larvae, insect parts, rodent hairs, and moldy peanuts.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 24, 1946. The George E. Pellens Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured and converted into stock feed, under the supervision of the Food and Drug Administration.

**9981. Adulteration of peanuts. U. S. v. 1,561 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19682. Sample Nos. 1258-H to 1261-H, incl., 1908-H to 1911-H, incl.)**

**LIBEL FILED:** April 19, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of January 30 and February 14, 1946, by J. M. Beall, Cottonwood, Ala.

**PRODUCT:** 1,561 bags, each containing approximately 120 pounds, of peanuts at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rancid peanuts.

**DISPOSITION:** May 4, 1946. The Crown Candy Co., Atlanta, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into crude oil and stock feed, under the supervision of the Food and Drug Administration.

**9982. Adulteration of peanuts. U. S. v. 300 Bags and 283 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 19674, 19675. Sample Nos. 63304-H, 63345-H, 63346-H.)**

**LIBELS FILED:** April 16, 1946, District of New Jersey.

**ALLEGED SHIPMENT:** On or about December 13, 1945, and January 9 and 12, 1946, from Suffolk, Va., Hartford, Ala., and New York, N. Y.

**PRODUCT:** 583 120-pound bags of peanuts at Irvington, N. J., in the possession of the Sophie Mae Candy Corporation. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta was observed on them. Examination showed that the product contained rodent excreta and moldy peanuts.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent excreta and moldy peanuts; and, Section 402 (a) (4), the product had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 9, 1946. The Sophie Mae Candy Corporation, claimant, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Federal Security Agency.

**9983. Adulteration of peanuts. U. S. v. 260 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 19997. Sample No. 44099-H.)**

**LIBEL FILED:** May 14, 1946, Southern District of California.



**ALLEGED SHIPMENT:** On or about January 28, 1946, from Marianna, Fla.

**PRODUCT:** 260 115-pound bags of peanuts at Los Angeles, Calif., in the possession of Los Angeles Nut House. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination showed that the product had been contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 17, 1946. Los Angeles Nut House, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9984. Adulteration of peanuts. U. S. v. 171 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20335. Sample No. 1268-H.)**

**LIBEL FILED:** June 14, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 27, 1946, by the Jewett and Sherman Co., from Columbus, Ga.

**PRODUCT:** 171 125-pound bags of peanuts at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rancid and moldy peanuts.

**DISPOSITION:** July 8, 1946. The Jewett and Sherman Co., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be crushed and processed into nonedible oil, or used in the mixing of hog feed, under the supervision of the Food and Drug Administration.

**9985. Adulteration of peanuts. U. S. v. 150 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 20636. Sample No. 51266-H.)**

**LIBEL FILED:** August 10, 1946, District of Minnesota.

**ALLEGED SHIPMENT:** On or about June 22, 1946, by the Fisher Nut and Chocolate Co., from Blue Island, Ill.

**PRODUCT:** 150 100-pound bags of peanuts at St. Paul, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** August 23, 1946. The Fisher Nut and Chocolate Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and reprocessing under the supervision of the Food and Drug Administration.

**9986. Adulteration of Kernel Krush (peanut spread). U. S. v. 41 Cases of Kernel Krush. Default decree of condemnation and destruction. (F. D. C. No. 20001. Sample No. 63318-H.)**

**LIBEL FILED:** May 17, 1946, Northern District of New York.

**ALLEGED SHIPMENT:** On or about February 16, 1946, by the Moseman Co., from Lancaster, Pa.

**PRODUCT:** 41 cases, each containing 24 1-pound jars, of Kernel Krush at Schenectady, N. Y.

**LABEL, IN PART:** "Sweet Life Kernel Krush."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirt, and it was otherwise unfit for food by reason of the presence of stones.

**DISPOSITION:** June 24, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9987. Misbranding of peanut butter. U. S. v. 174 Cases of Peanut Butter. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 19792. Sample No. 49030-H.)**

**LIBEL FILED:** April 27, 1946, Southern District of Mississippi.



**ALLEGED SHIPMENT:** On or about February 4, 1946, by the Rainer Packing Co., from Montgomery, Ala.

**PRODUCT:** 174 cases, each containing 24 jars, of peanut butter at Natchez, Miss. Examination showed that the product was short-weight.

**LABEL, IN PART:** "Net Weight 16 Oz. Rainer's Pure Peanut Butter."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** May 21, 1946. The Rainer Packing Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be refilled to the labeled weight, under the supervision of the Food and Drug Administration.

**9988. Adulteration of pecans. U. S. v. 38 Boxes and 9 Boxes of Pecans. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 19725, 19726. Sample Nos. 1639-H, 1832-H to 1835-H, incl.)**

**LIBELS FILED:** On or about May 2, 1946, Northern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of January 28 and March 13, 1946, by the Monticello Pecan Co., from Tallahassee, Fla.

**PRODUCT:** 47 55-pound boxes of pecans at Atlanta, Ga. Examination showed the presence of rancid and decomposed pecan meats.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 14, 1946. The Monticello Pecan Co. having appeared as claimant, and having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**9989. Adulteration of pecans. U. S. v. 10 Cases of Pecans. Default decree of condemnation and destruction. (F. D. C. No. 19826. Sample No. 53112-H.)**

**LIBEL FILED:** May 3, 1946, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about February 11, 1946, by the American Pecan Co., from San Antonio, Tex.

**PRODUCT:** 10 60-pound cases of pecans at Columbus, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of dirty and rancid pecans.

**DISPOSITION:** June 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9990. Adulteration of pecans. U. S. v. 2 Cartons of Pecans. Default decree of condemnation and destruction. (F. D. C. No. 19677. Sample No. 3694-H.)**

**LIBEL FILED:** April 17, 1946, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about February 9, 1946, by C. S. Carter, from Camilla, Ga.

**PRODUCT:** 2 30-pound cartons of pecans at Richmond, Va. Examination showed that the article contained *E. coli*, an organism which indicates pollution of fecal origin.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of *E. coli*.

**DISPOSITION:** May 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9991. Adulteration of pecan halves. U. S. v. 3 Cartons of Pecan Halves. Default decree of forfeiture and destruction. (F. D. C. No. 19783. Sample No. 52642-H.)**

**LIBEL FILED:** April 25, 1946, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about February 11, 1946, by Oklahoma Pecan Shellers, Tulsa, Oklahoma.

**PRODUCT:** 3 30-pound cartons of pecan halves at Indianapolis, Ind. Examination showed that the product was moldy.

**LABEL, IN PART:** "Sterilized Nut Meats H. Richard Sons The Nut House  
\* \* \* Tulsa, Okla."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** June 10, 1946. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**9992. Adulteration of shelled pecans. U. S. v. 31 Cartons and 34 Cartons of Shelled Pecans. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 20408, 20409. Sample Nos. 52730-H, 52731-H.)

**LIBELS FILED:** July 16, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 14, 1946, by J. R. Fleming and Co., from Weatherford, Tex.

**PRODUCT:** 65 60-pound cartons of shelled pecans at Cleveland, Ohio.

**LABEL, IN PART:** "Texas Bluebonnet (Brand) Shelled Pecans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** August 13, 1946. J. R. Fleming and Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**9993. Adulteration of walnuts. U. S. v. Consolidated Nut Co., and Carl O. Bashaw. Pleas of nolo contendere. Each defendant fined \$200; fine against individual defendant remitted.** (F. D. C. No. 17853. Sample Nos. 18988-H, 27223-H, 30858-H, 30859-H.)

**INFORMATION FILED:** April 8, 1946, Southern District of California, against the Consolidated Nut Co., a partnership, Los Angeles, Calif., and Carl O. Bashaw, a partner.

**ALLEGED SHIPMENT:** On or about May 22, 1945, from the State of California into the State of Washington.

**LABEL, IN PART:** "Golden Bear Shelled California Walnuts \* \* \* Pacific Groc. Co. Everett Wash."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested nuts.

**DISPOSITION:** May 6, 1946. Pleas of nolo contendere having been entered, fines of \$200 were imposed against each defendant; the fine against the individual defendant was remitted.

## OILS AND FATS

**9994. Adulteration of French dressing. U. S. v. 40 Cases of French Dressing. Default decree of condemnation and destruction.** (F. D. C. No. 19935. Sample Nos. 30670-H, 30677-H.)

**LIBEL FILED:** May 22, 1946, District of Arizona.

**ALLEGED SHIPMENT:** On or about February 25, 1946, by Old World Foods, Inc., from Los Angeles, Calif.

**PRODUCT:** 40 cases, each containing 24 pint bottles, of French dressing at Phoenix, Ariz. Examination showed that the product was undergoing fermentation.

**LABEL, IN PART:** "Barra's Burgundy Wine Dressing \* \* \* The Barra Co. Los Angeles, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9995. Adulteration and misbranding of French dressing. U. S. v. 50 Cases of French Dressing. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 19801. Sample No. 59649-H.)

**LIBEL FILED:** April 30, 1946, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 28, 1946, by the Daniels Food Products Co., from Chicago, Ill.

**PRODUCT:** 50 cases, each containing 24 8-ounce bottles, of French dressing at Pittsburgh, Pa. Examination showed that the product was an artificially



colored diluted vinegar with some flavoring and gum. It contained less than one percent of oil, an integral part of French dressing.

**LABEL, IN PART:** "La-Fay French Dressing."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, oil, had been in whole or in part omitted from the article.

Misbranding, Section 403 (b), the designation "French Dressing," appearing on the label, was false and misleading; and, Section 403 (b), the article was offered for sale under the name of another food.

**DISPOSITION:** May 17, 1946. The Daniels Food Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**9996. Adulteration of salad dressing. U. S. v. 25 Cases, 11 Cases, and 40 Cases of Salad Dressing. Default decrees of condemnation and destruction.** (F. D. C. Nos. 20078, 20079. Sample Nos. 52880-H to 52882-H, incl.)

**LIBELS FILED:** June 10, 1946, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about May 3 and 10, 1946, by the Adler Mayonnaise Co., from Evansville, Ind.

**PRODUCT:** 36 cases, each containing 24 pint bottles, and 40 cases, each containing 24 half-pint bottles, of salad dressing at Henderson, Ky. The product contained monochloroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

**LABEL, IN PART:** "Tops All Brand Salad Dressing."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance.

**DISPOSITION:** July 8, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**9997. Adulteration of salad dressing. U. S. v. 10 Cases of Salad Dressing. Default decree of condemnation and destruction.** (F. D. C. No. 19780. Sample No. 10884-H.)

**LIBEL FILED:** April 23, 1946, Western District of New York.

**ALLEGED SHIPMENT:** On or about February 4, 1946, by U. S. Brands, Inc., from Cleveland, Ohio.

**PRODUCT:** 10 cases, each containing 4 1-gallon jars, of salad dressing at Buffalo, N. Y.

**LABEL, IN PART:** "Sar-a-Lee Salad Dressing This product consists of edible vegetable oil \* \* \* cane sugar, egg yolk, cider and distilled vinegar, cereal, salt, tapioca, imported gum and spices Manufactured By The Sar-a-Lee Company, Cleveland, Ohio."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice; Section 402 (b) (2), an article containing saccharin had been substituted in whole or in part for salad dressing containing cane sugar; and, Section 402 (b) (4), saccharin had been mixed and packed with the article so as to reduce its quality or strength and make it appear better and of greater value than it was.

**DISPOSITION:** May 20, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**9998. Adulteration of mayonnaise. U. S. v. 8 Cases and 8 Jars of Mayonnaise. Default decree of condemnation and destruction.** (F. D. C. No. 19691. Sample Nos. 1193-H, 1194-H.)

**LIBEL FILED:** May 1, 1946, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about March 7 and 13, 1946, by Scarborough Brothers of Gastonia, N. C., from Columbia, S. C.

**PRODUCT:** 8 cases, each containing 12 quarts, of mayonnaise and 8 pint jars of the same product at Bessemer City, N. C.

**LABEL, IN PART:** "Caldwell's Mayonnaise \* \* \* Made By Caldwell's Cafeteria, Columbia, S. C. Distributed By Dixie Produce Co., Columbia, S. C. \* \* \* Made With Mineral Oil," or "Caldwell's Mayonnaise Contains Min-



eral Oil \* \* \* Made By Caldwell's Cafeteria, Columbia, S. C. Dixie Brokerage Co., Columbia, S. C. Sales Agent."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained (quart jars) approximately 54 percent and (pint jars) 56 percent added mineral oil, a deleterious substance, which may have rendered the product injurious to health; and, Section 402 (b) (2), mineral oil had been substituted in whole or in part for edible vegetable oil, a normal constituent of mayonnaise.

DISPOSITION: May 25, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

9999. Misbranding of oil. U. S. v. 22 5-Gallon Cans, 14 6-Ounce Bottles, 1 12-Ounce Bottle, 5 Quart Bottles, and 3 Half-Gallon Bottles of Oil. Default decree of condemnation. Product ordered delivered to a municipal hospital. (F. D. C. No. 20485. Sample No. 42019-H.)

LIBEL FILED: July 8, 1946, District of Columbia.

PRODUCT: 22 5-gallon cans, 14 6-ounce bottles, 1 12-ounce bottle, 5 quart bottles, and 3 half-gallon bottles of oil held for sale in the District of Columbia in the possession of Tony's Grocery Co., Washington, D. C. The oil was sold as "Pure Olive Oil." Examination showed that the product was an artificially colored oil.

LABEL, IN PART: (Embossed on cans) "5 Gal." The bottles were unlabeled.

NATURE OF CHARGE: Misbranding, Section 402 (b), the product was offered for sale under the name of another food, olive oil; Section 403 (e), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), with the exception of the 22 5-gallon cans, it failed to bear a label containing an accurate statement of the quantity of the contents; Section 403 (i) (1), the label failed to bear the common or usual name of the food; and, Section 403 (k), the oil contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: July 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a municipal hospital.

10000. Misbranding of edible oil. U. S. v. 2 Cans and 16 Cans of Edible Oil. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 19901. Sample No. 56881-H.)

LIBEL FILED: On or about May 16, 1946, District of Rhode Island.

ALLEGED SHIPMENT: On or about April 12, 1946, by Harry Kamare, from Brooklyn, N. Y.

PRODUCT: 2 5-gallon unlabeled cans and 16 1-gallon unlabeled cans of edible oil at Providence, R. I. Examination showed that the product consisted essentially of artificially flavored cottonseed oil.

NATURE OF CHARGE: Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; Section 403 (i) (1), the label failed to bear the common or usual name of the food; and, Section 403 (k), the article contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: June 19, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 9801 TO 10000

PRODUCTS

	N. J. No.		N. J. No.
Almonds -----	9979	Bakery products-----	9808-9810
Anchovies, canned-----	9902	Bean(s), canned, pinto-----	9944
Apple(s) canned-----	9926	with pork-----	9945
pomace -----	9939	sprouts-----	9947
Artichoke pulp, canned-----	9942	string -----	9946
Baby food-----	9832, 9927	dried -----	9943



	N. J. No.		N. J. No.
Beets, cut, canned	9948	Macaroni and noodle products	9825-9831
Beverages and beverage materials	9801-9807	Mayonnaise	9998
Blackberries, frozen	9936	Mushrooms, canned	9949
Bread	9808, 9809	Mustard greens, canned	9950, 9951
Butter	9860-9885	Noodle dinner with chicken	9826
Candy	9842-9852	See also Macaroni and noodle products.	
Cereals and cereal products	9808-9841	Nuts and nut products	9833, 9851, 9979-9993
Cerol (precooked cereal)	9832	Oils and fats	9994-10000
Cheese	9886-9897	Pastry flour	9821
Cheddar	9889	Peaches, strained	9927
Colby	9890	Peanut(s)	9980-9985
grated	9886, 9891-9896	brittle	9851
Romano	9897	butter	9987
spread	9898	spread	9986
whey	9887	Peas, green, canned	9952-9960
Chicken, noodle dinner with	9826	dried	9961
Chocolate	9853, 9854	Pecans	9833, 9988-9992
coating	9854	Phosphated flour	9818
-flavored sirup	9855, 9856	Popcorn	9833-9840
Coffee	9801, 9802	Prunes, dried	9931
Cookies	9808	Raisins	9932-9935
Corn flour	9811	Rice	9840, 9841
meal	9811-9817	Rolls	9808
Crab meat, canned	9903-9905	Rosefish fillets	9916-9918
Crackers	9810	Salad dressing	9996, 9997
Dairy products	9860-9898	Salmon, smoked	9919
Dates, fresh	9929	Sardines, canned	9920
Egg(s), dried	9901	Sauerkraut	9962-9964
frozen	9899, 9900	Self-rising flour	9812
yolks	9899	Shad, smoked, canned	9921
Enriched flour	9824	Shrimp, frozen	9922, 9923
Fats. See Oils and fats.		Sirup(s), beverage	9804
Figs, dried	9930	malt	9806
Fish and shellfish	9902-9925	sugar cane	9857
Flour	9812, 9817-9824	chocolate-flavored	9855, 9856
French dressing	9994, 9995	Soy flour	9817, 9822
Fruits and vegetables	9804, 9805, 9926-9978	grits	9817
fruit, canned	9926-9928	Spaghetti dinner	9828, 9829
cocktail	9928	See also Macaroni and noodle products.	
concentrate, grape-flavored	9805	Strawberries, frozen	9937
dried	9930-9935	Strawberry puree	9940, 9941
frozen	9936, 9937	Sugar	9858, 9859
miscellaneous fruit products	9938-9941	cane sirup	9857
sirups, beverage	9804	Tomato catsup	9967, 9968
tomatoes and tomato products	9967-9978	juice	9969-9971
vegetables and vegetable products	9942-9966	paste	9972, 9973
Grape concentrate	9805	puree	9974-9976
Haddock fillets	9907	sauce	9977, 9978
Hake fillets	9908-9913	Turnip greens, canned	9965
Halibut, frozen	9914	Vinegar	9938
High C Preservatives	9807	Walnuts	9993
Kernel Krush (peanut spread)	9986	Welsh-rarebit (cheese spread)	9898
Lobster, canned	9915	Whiting, frozen	9924, 9925
		Whole wheat flour	9821, 9823

## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

Adler Mayonnaise Co.:		American Bakeries Co.:	
salad dressing	9996	flour	9820
Alma Canning Co.:		American Fillet Co.:	
canned mustard greens	9950	frozen hake fillets	9912
Alton Canning Co., Inc.:		American Pecan Co.:	
canned cut beets	9948	pecans	9989



	N. J. No.		N. J. No.
American Poultry Co.:		Chilena Industrial De Pesca,	
noodle dinner with chicken-----	9826	Sociedad:	
Anchor Fish Co.:		canned anchovies-----	9902
frozen hake fillets-----	9911	Citizens Baking Co., Inc.:	
Armada Food Products Co.:		bread-----	9809
grated cheese-----	9886	Clapp, H. H., Inc.:	
Armour & Co.:		Cerol (precooked cereal)-----	9832
frozen whole eggs-----	9900	Clapp, Harold H., Inc.:	
Armour & Co. Creamery:		strained peaches-----	9927
butter-----	9861	Coastal Fisheries:	
Aron, J., Co., Inc.:		frozen hake fillets-----	9910
green coffee-----	9802	Columbia Produce Co. <i>See</i> Mar-	
B R & P Warehouse:		ion Creamery & Poultry Co.	
corn meal, soy flour, and soy		Commodity Sales Co.:	
grits-----	9817	sugar cane sirup-----	9857
Barbero, E. <i>See</i> Barbero, Eva-		Consolidated Nut Co.:	
risto.		walnuts-----	9993
Barbero, Evaristo:		Consolidated Pop Corn Co.:	
wine vinegar-----	9938	popcorn-----	9839
Barra Co.:		Cudahy Packing Co.:	
French dressing-----	9994	butter-----	9860
Bashaw, C. O.:		Cushing Creamery Co.:	
walnuts-----	9993	butter-----	9866
Basso Pure Food Products:		Daniels Food Products Co.:	
grated cheese-----	9894	French dressing-----	9995
Basso's, Mrs., Pure Foods:		Denbo, R. H.:	
grated cheese-----	9894	tomato juice-----	9969
Beall, J. M.:		Denbo, R. H., Canning Co. <i>See</i>	
peanuts-----	9981	Denbo, R. H.	
Beatrice Creamery Co.:		Dietetic Food Co., Inc.:	
butter-----	9869	spaghetti and noodles-----	9831
Bellevue Creamery & Produce		Dilworth Co.:	
Co.:		coffee-----	9801
butter-----	9884	Dixie Brokerage Co.:	
Bethel Creamery:		mayonnaise-----	9998
butter-----	9882	Dixie Produce Co.:	
Blue Line Storage Co.:		mayonnaise-----	9998
rice-----	9841	Domingo Packing Co.:	
Bonsor, C. F., & Co., Inc.:		canned pinto beans-----	9944
raisins-----	9935	Doud Milling Co.:	
Booth Fisheries Corp.:		corn meal and self-rising pan-	
frozen whiting-----	9924	cake flour-----	9812
Bortz-Sakowitz Co.:		Dubuque Cooperative Dairy:	
tomato juice-----	9970	cheese-----	9888
Bottled Pure Juice Co.:		Eagle Milling Co.:	
canned artichoke pulp-----	9942	corn meal-----	9813
Breyer Ice Cream Co.:		Eason Candy Co.:	
strawberry puree-----	9940	candy-----	9845
Brown packing Co.:		Eavey Co.:	
strawberry puree-----	9941	canned peas-----	9959
Burns, Frank, Inc.:		El Encanto Vineyards:	
cheese crackers-----	9810	raisins-----	9933
C. I. Products Co.:		El Mar Packing Co.:	
chocolate sirup-----	9855	raisins-----	9933
Caldwell's Cafeteria:		Elkhart Lake Canning Co.:	
mayonnaise-----	9998	canned peas-----	9956
California Conserving Co.:		Elkton Farmer's Creamery:	
canned tomato paste-----	9973	butter-----	9876
Campbell Holton & Co.:		Empire Distributing Co.:	
canned peas-----	9955	canned peas-----	9952
Carter, C. S.:		Empire State Cheese Co.:	
pecans-----	9990	Romano cheese-----	9897
Central California Packing Co.:		Enos, James:	
raisins-----	9934	frozen hake fillets-----	9911
Cherokee Products Co.:		Farmer's Coop. Creamery:	
sugar-----	9858	butter-----	9867

	N. J. No.		N. J. No.
Favorite Confection Co.:		Hoenshel Fine Foods, Inc.:	
confectionery	9842	flour	9819
Federal Sweets & Biscuit Co.,		raisins	9932
Inc.:		Holmes Packing Corp.:	
candy	9846	canned sardines	9920
Felici, G. T.:		Holton, Campbell, & Co. <i>See</i>	
grated cheese	9892	Campbell Holton & Co.	
Fetherston, P. L.:		Homeland Dairy Co.:	
corn meal	9811	Colby cheese	9890
Finer Foods Packing Corp.:		Houdson Refrigerating Co.:	
canned tomato puree	9974	frozen blackberries	9936
First National Stores:		Hungarian Pickle Products Co.:	
butter	9876	sauerkraut	9962
Fisher Nut & Chocolate Co.:		Hunt Foods, Inc.:	
peanuts	9985	tomato sauce	9977, 9978
Fitch, H. L.:		Idaho Boyd-Conlee Co.:	
corn meal and self-rising pan-		plain flour, whole wheat flour,	
cake flour	9812	and pastry flour	9821
Fleming, E. J.:		Illinois Canning Co.:	
canned crab meat	9903	canned pork and beans	9945
Fleming, J. H., & Co.:		Independent Fish Co.:	
canned crab meat	9903	rosefish fillets	9916, 9917
Fleming, J. R., & Co.:		Indiana Wholesale Food Supply	
shelled pecans	9992	Corp.:	
Food Fair, Inc.:		tomato catsup	9968
canned mushrooms	9949	Jackson, J. M., & Sons:	
Food Fair Stores, Inc.:		canned crab meat	9905
butter	9871, 9877	Jennaro, Anton:	
Fox-Cross Candy Co.:		popcorn	9837
candy	9852	Jewett & Sherman Co.:	
Frigie Corp. of America:		peanuts	9984
grape concentrate	9805	Johnson, H. A., Co.:	
G. & B. Candy Co.:		almonds	9979
confectionery	9843	Jones, M. H.:	
Galioto Brothers & Co.:		frozen fish fillets	9906
spaghetti and macaroni	9827	Kamare, Harry:	
General Ice & Cold Storage:		edible oil	10000
frozen haddock fillets	9907	Kelly, T. B.:	
Gholson & Gholson:		corn meal	9816
dried prunes	9931	Kenny, C. D., Division:	
Gilmanton Cooperative Creamery		corn meal	9816
Co.:		King, D. W., Co.:	
butter	9873	frozen strawberries	9937
Goldblatt, A. C.:		King Kola Mfg. Co.:	
butter	9878	beverage concentrate	9803
Golden, Mandelbaum & Miller,		Krenning-Schlapp Grocer Co.:	
Inc.:		rice and popcorn	9840
frozen halibut	9914	Kruse's Inc. of Florida:	
Granite City Cooperative Cream-		strawberry puree	9940
ery Assoc., Inc.:		Kurtz Brothers:	
butter	9863	grated cheese	9891
Green Garden Confections:		Kushner & Co.:	
peanut brittle	9851	canned tomato catsup	9967
Hall, H.:		La Choy Food Products, Div. of	
raisins	9934	Beatrice Creamery:	
Hartley & Sons Canning Co.:		canned bean sprouts	9947
tomato juice	9970	Ladeira, M., & Ca., Lda.:	
Harvey Cooperative Creamery:		canned anchovies	9902
butter	9880	Lakeside Butter Co., Div. of	
Herold Co., Inc.:		Plymouth Products, Inc.:	
butter	9874	butter	9878
Hershel California Fruit Prod-		Land O Lakes Creamery:	
ucts Co.:		whole dried eggs	9901
canned tomato paste	9972	Larimore Creamery:	
Hill, H. G., Stores:		butter	9868
butter	9860		

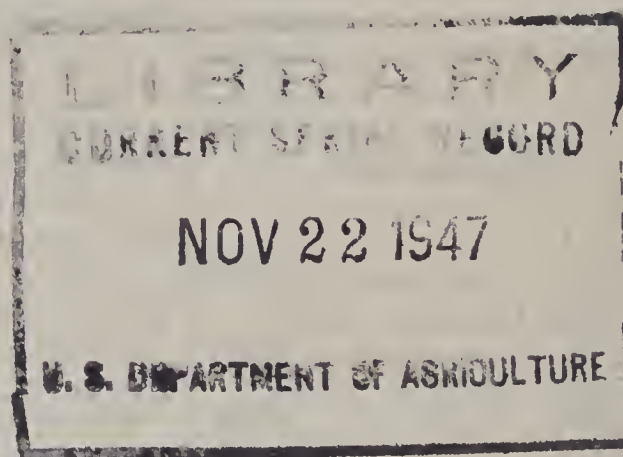


	N. J. No.		N. J. No.
Latella, G., & Sons:		Myers Produce Creamery:	
grated cheese-----	9892	butter-----	9865
Lewis Crab Factory:		N. W. Butter & Egg Co:	
canned crab meat-----	9904	butter-----	9879
Lexington Mill & Elevator Co.:		National Butter Co.:	
enriched flour-----	9824	butter-----	9877
Liberty Fish Co.:		New England Dairies, Inc.:	
frozen shrimp-----	9923	butter-----	9864
Ligik Distributors:		New England Fillet Co.:	
butter-----	9872	frozen rosefish fillets-----	9918
Limberlost Canning Corp.:		New Haven Syrup Co.:	
tomato juice-----	9971	malt sirup-----	9806
Los Angeles Nut House:		New Yorker Cheese Co.:	
peanuts-----	9983	grated cheese-----	9893
Mac, W. W., Co.:		Nielson, M. A.:	
candy-----	9850	butter-----	9862
McCarthy, J. A., Seed Co.:		Nielson, Hardy North, Creamery.	
popcorn-----	9834	See Nielson, M. A.	
McClusky Creamery Co.:		Norris, Curley:	
butter-----	9874	corn meal-----	9815
McDonnell Seed Co.:		North State Canning Co., Inc.:	
dried green peas-----	9961	canned sauerkraut-----	9964
Mae, Sophie, Candy Corp.:		Northern Produce Co.:	
peanuts-----	9982	butter-----	9883
Magnolia Food Products Corp.:		Norton Candy Co.:	
Welsh-rarebit (cheese spread) -	9898	candy-----	9845
Mannino, J. S.:		Oklahoma Pecan Shellers:	
wehy cheese-----	9887	pecan halves-----	9991
Mannino, Marco:		Old World Foods, Inc.:	
wehy cheese-----	9887	French dressing-----	9994
Mannino Cheese Co.:		Omaha Cold Storage Co.:	
wehy cheese-----	9887	butter-----	9884
Marciano, G. P.:		Oregon Food Sales Co.:	
grated cheese-----	9886	canned smoked shad-----	9921
Marion Creamery & Poultry Co.:		Orleans County Canning Co.:	
frozen whole eggs and frozen		canned tomato catsup-----	9967
egg yolks-----	9899	Pacific Grocery Co.:	
Mason Co., Inc.:		walnuts-----	9993
popcorn-----	9836	Paoli Mill. See Fetherston, P. L.	
Matmor Canning Co., Inc.:		Park Rapids Coop. Creamery:	
canned tomato paste-----	9972	butter-----	9870
Mayfair Food Products Co.:		Pellens, George E., Co.:	
canned sauerkraut-----	9963	peanuts-----	9980
Mersel, Alex, & Son:		Penn Blue Ridge Dairy:	
butter-----	9868	butter-----	9862
Merzoian Packing Co.:		Phelps, Phoebe, Caramel Co.:	
dried figs-----	9930	chocolate coating and sweet	
Midwest Dairy Despatch:		chocolate-----	9854
butter-----	9871	Philadelphia Macaroni Manufac-	
Minnetonka Popcorn Co.:		turing Co.:	
popcorn-----	9835	spaghetti dinner-----	9829
Mission Macaroni Co., Inc.:		Phillips Sales Co., Inc.:	
macaroni-----	9825	canned string beans-----	9946
Mitchell, John S., Inc.:		Pipestone Produce Co.:	
canned peas-----	9952	butter-----	9870
Monticello Pecan Co.:		Pond Village Cold Storage:	
pecans-----	9988	frozen whiting-----	9924
Moore's Seafood Co., Inc.:		Producer's Fish Co.:	
frozen shrimp-----	9922	frozen hake fillets-----	9911, 9913
Morgan Packing Co.:		Progressive Fish Wharf, Inc.:	
tomato catsup-----	9968	frozen rosefish fillets-----	9917
Moseman Co.:		Quaker City Wholesale Grocery	
Kernel Krush (peanut spread)	9986	Co., Inc.:	
Musselman, C. H., Co.:		spaghetti dinner-----	9828
apple pomace-----	9939		

	N. J. No.		N. J. No.
Rainer Packing Co.:		Schulze, Paul A., Co.:	
peanut butter-----	9987	butter-----	9875
Ranch Maid Candy Co.:		Seaview Fish Co.:	
candy-----	9849	frozen hake fillets-----	9908
Rath Transportation Co.:		Sen Sen Extract Co., Inc.:	
whole wheat flour-----	9823	High C Preservatives-----	9807
Reco Sales Co.:		Serv-Agen Corp.:	
beverage sirups-----	9804	grated cheese-----	9895
Red Lake Falls Creamery:		Shaff, Barad, Sales Co.:	
butter-----	9879	butter-----	9872
Regal Farmer:		Sigg, Milton, Co.:	
butter-----	9877	popcorn-----	9838
Reid, M. L.:		Sociedad Chilena Industrial De	
dates-----	9929	Pesca:	
Rendleman, R. L.:		canned anchovies-----	9902
popcorn-----	9837	South Atlantic Canning Co., Inc.:	
Renehan, A. H., & Son:		canned turnip greens-----	9965
canned apples-----	9926	Southland Products Co.:	
Richard, H., Sons, The Nut		frozen blackberries-----	9936
House:		Spring Valley Dairy:	
pecan halves-----	9991	butter-----	9881
Rifkin, Morris, & Son, Div. Food		Standard Fish Co.:	
Fair Stores, Inc.:		frozen fish fillets-----	9906
butter-----	9877	Star Candy Co.:	
Robinson, J. B.:		candy-----	9847
chocolate-flavored sirup-----	9856	Stein Hall Co., Inc.:	
Rockwood & Co.:		soy flour-----	9822
chocolate-----	9853	Stick Candy Co.:	
Rodkey Millers. See Eagle Mill-		candy-----	9844
ing Co.		Stokely Canning Co., Inc.:	
Roma Extract Co.:		canned peas-----	9954
Romano cheese-----	9897	Stump, Carl:	
Rome Fish & Oyster Co.:		smoked salmon-----	9919
frozen fish fillets-----	9906	Sugar Creek Creamery Co.:	
Roselli's Pure Food, Inc.:		butter-----	9860
spaghetti dinner-----	9828	Summers, Charles G., Jr., Inc.:	
Rosenberg, Morris:		mixed vegetables-----	9966
popcorn and pecan meats-----	9833	Sun Garden Packing Co.:	
Rosenberg Brothers Co.:		canned tomato puree-----	9976
raisins-----	9932	Sunnydale Farms, Inc.:	
Rosenberg, Morris, Co.:		butter-----	9866
popcorn and pecan meats-----	9833	Superior Cheese Co.:	
Rosenblum, J., & Sons:		Cheddar cheese-----	9889
butter-----	9874, 9880	Superior Fillets, Inc.:	
Rowe & Kennedy, Inc.:		frozen haddock fillets-----	9907
dried beans-----	9943	Swayne, J. B., & Son:	
St. Cloud Products Assoc.:		canned mushrooms-----	9949
canned peas-----	9957	Swinger & Binstock:	
St. Mary's Mill Co.:		canned peas-----	9960
phosphated flour-----	9818	Sycamore Preserve Works:	
Sallisaw Canning Co.:		canned peas-----	9958
canned mustard greens-----	9951	Templeton, R. A.:	
San Jose Canning Co.:		canned lobster-----	9915
canned tomato puree-----	9975	Texarkana Candy Co.:	
San Martin Canning Co.:		candy-----	9848
canned artichoke pulp-----	9942	Three Ribbons Packing Co.:	
Sandner & Co.:		canned spaghetti with mush-	
malt sirup-----	9806	room sauce-----	9830
Sar-a-Lee Co.:		Tichon's Fish & Fillet Corp.:	
salad dressing-----	9997	frozen hake fillets-----	9909
Scarborough Brothers:		Tony's Grocery Co.:	
mayonnaise-----	9998	oil-----	9999
Schoenfeld, H., & Sons:		Tri-State Co-operative Dairy	
canned anchovies-----	9902	Ass'n.:	
		butter-----	9867



	N. J. No.		N. J. No.
U. S. Brands, Inc.:		Wilson, Frank M., Co., Inc.:	
salad dressing-----	9997	canned fruit cocktail-----	9928
Vannucci, R., & Sons:		Winchester Canning Co.:	
tomato sauce-----	9978	canned peas-----	9959
Wadman, C. G., & Co.:		Winchester Milling Co.:	
frozen H & G Whiting and		corn meal-----	9814
frozen Round Whiting-----	9925	Woods Cross Canning Co.:	
Washington, George S., & Sons:		canned peas-----	9953
canned cut beets-----	9948	Yaquina Bay Fish Co.:	
Weissglass Gold Seal Dairy		canned smoked shad-----	9921
Corp.:		Zenith-Godley Co., Inc.:	
butter-----	9865	butter-----	9885
Wildstein, M., & Sons:		Zeno Bakery Corp.:	
grated cheese-----	9896	bakery products-----	9808



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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,  
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

10001-10200

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *May 29, 1947.*

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BEVERAGES AND BEVERAGE MATERIALS

10001. Misbranding of Esterex. U. S. v. 4 Cases of Esterex. Tried to the court. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13768. Sample No. 71099-F.)

LABEL FILED: September 13, 1944, District of Oregon; amended March 23 and July 2, 1945.

ALLEGED SHIPMENT: On or about June 28, 1944, by the C. O. and W. D. Sethness Co., from Chicago, Ill.

PRODUCT: 4 cases, each containing 4 1-gallon jugs, of Esterex at Portland, Oreg. Analysis showed that the product was a water solution of monochloracetic acid and other chlorides, containing about 11 grams of monochloracetic acid per 100 cc.

LABEL, IN PART: "Estrex \* \* \* Contains Water and (Salts and Esters of Monochloracetic Acid)."



**NATURE OF CHARGE:** Misbranding, Section 403 (a), the labeling was misleading in that it failed to reveal the fact that the article contained about 11 grams per 100 cc. of monochloroacetic acid, a poisonous and deleterious substance, which caused the article to be a poisonous and deleterious substance and which rendered it unwholesome and unsuitable for use as a component of food used by man.

**DISPOSITION:** On November 28, 1944, the C. O. and W. D. Sethness Co., claimant, having filed a petition for the removal of the case for trial to another jurisdiction, an order was entered directing the transfer of the case to the Eastern District of Wisconsin. Thereafter, the claimant filed an answer denying the misbranding of the product, and on July 2, 1945, the case came on for trial before the court. After consideration of the testimony of the parties and the arguments of counsel, the court, on September 4, 1945, handed down the following findings of fact and conclusions of law:

F. RYAN DUFFY, *District Judge*:

#### FINDINGS OF FACT

"1. On or about the 28th day of June, 1944 said C. O. & W. D. Sethness Company did ship and consign from Chicago, Illinois to Portland, Oregon said article so seized.

"2. That said article consists of a solution of monochloroacetic acid in water in the proportions of eleven grams of monochloroacetic acid to one hundred cubic centimeters of the article. Monochloroacetic acid is a poisonous and deleterious substance, and the article is a poisonous and deleterious substance.

"3. Said article was sold and shipped by claimant to be used as a component of food.

"4. When introduced into interstate commerce as aforesaid, the labeling of said article represented that it was a non-poisonous and harmless substance and failed to reveal the fact material in the light of such representation that said article is a poisonous and deleterious substance, and that by reason of said omission I find that said labeling was misleading within the meaning of Sec. 343 (a), Title 21, United States Code.

"5. That Esterex, when used in proportions not to exceed 500 parts per million of monochloroacetic acid, does not render foods or beverages injurious, deleterious or unsafe for human consumption.

#### CONCLUSIONS OF LAW

"1. That the said article under seizure is misbranded in violation of Sec. 343 (a), Title 21, United States Code, because its labeling is misleading within the meaning of Sec. 343 (a), and was introduced into interstate commerce in violation of Sec. 331 (a), Title 21, United States Code, and is subject to condemnation, pursuant to Sec. 334 (a), Title 21, United States Code. Let a decree of condemnation be entered accordingly, with costs against the claimant."

On September 4, 1945, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**10002. Misbranding of Esterex. U. S. v. 15 Bottles of Esterex (and 8 other seizure actions against Esterex). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15339, 16130, 16158, 16159, 17262, 18014, 18016, 18825, 18953, 19137. Sample Nos. 13462-H, 20134-H, 20198-H, 20199-H, 21957-H, 23833-H, 23877-H, 23887-H, 25090-H, 33161-H.)

**LIBELS FILED:** Between March 5, 1945, and February 21, 1946, Western District of Oklahoma, Eastern, Western, and Northern Districts of Texas, Western District of Tennessee, Northern District of Ohio, and District of Kansas. An amended libel was filed in the Western District of Tennessee on January 28, 1946, to charge the product to be a food instead of a drug as originally charged.

**ALLEGED SHIPMENT:** Between the approximate dates of August 5, 1944, and November 26, 1945, by C. O. and W. D. Sethness Co., from Chicago, Ill.

**PRODUCT:** 108 1-gallon bottles of Esterex at Oklahoma City and Stillwater, Okla.; Temple, Corsicana, and Sherman, Texas; Toledo, Ohio; Memphis, Tenn.; and Winfield, Kans. Analysis disclosed that the product was an aqueous solution containing between 15 grams and 23 grams of monochloroacetic acid per 100 cc.

**LABEL, IN PART:** "Cosco Esterex \* \* \* Contains Water and (Salts and Esters of Monochloracetic Acid)," "Cosco Esterex \* \* \* a buffered aqueous solution of monochloracetic acid and its selected esters, salt, and glycerine. Directions for stabilizing purposes use ½ ounce to each gallon of bottling syrup, or to 6 gallons of finished drink," or "Cosco Esterex \* \* \* an aqueous solution of monochloracetic acid and its salts and esters, glycerine, salt and certified food color. Caution: Esterex in its present concentrated form is caustic, is not a finished food and should be used with care \* \* \* Directions when use of a stabilizer is indicated by good manufacturing procedure, add ½ ounce of Esterex to each gallon of bottling syrup, or to 6 gallons of finished drink."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the labeling of the article was misleading in that it represented to purchasers that the article was wholesome and suitable for use as a component of beverages used by man, whereas the article contained monochloracetic acid, a poisonous and deleterious substance; and the labeling failed to reveal the material fact in the light of the representations made, that the article contained a poisonous and deleterious substance.

**DISPOSITION:** Between April 17, 1945, and March 22, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10003. Adulteration of grape juice. U. S. v. 1,086 Cans of Grape Juice. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17187. Sample No. 31573-H.)

**LIBEL FILED:** August 24, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about May 29, 1945, by the Monmouth Products Co., from Asbury Park, N. J.

**PRODUCT:** 1,086 5-gallon cans of grape juice at Los Angeles, Calif. This product was undergoing active fermentation.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 8, 1945. The Monmouth Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into alcohol or brandy of any portion fit for such purposes, under the supervision of the Food and Drug Administration.

**10004. Adulteration of grapefruit juice. U. S. v. 1,798 Cases of Grapefruit Juice (and 1 other seizure action against grapefruit juice). Consent decrees of condemnation and destruction.** (F. D. C. Nos. 15892, 17196. Sample Nos. 20091-H, 22921-H.)

**LIBELS FILED:** April 9 and August 24, 1945, Eastern District of Missouri and District of Nebraska.

**ALLEGED SHIPMENT:** On or about March 5 and May 17, 1945, by the Christensen Products Co., from Weslaco, Tex.

**PRODUCT:** 1,798 cases, each containing 24 1-pint, 2-ounce cans, of grapefruit juice at St. Louis, Mo., and 555 cases, each containing 12 1-quart, 14-ounce cans, of the same product at Omaha, Nebr.

**LABEL, IN PART:** "Tom Boy 'flavor plus' [or "Fancy Red and White Brand"] Unsweetened Grapefruit Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots, insect eggs, fly eggs, and fly fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 10 and November 5, 1945. The shipper and the consignee of the Omaha lot having consented to the entry of a decree, and the claimant of the St. Louis lot having admitted the allegations of the libel, judgments of condemnation were entered and the product was ordered destroyed.



**10005. Adulteration of orange drink. U. S. v. 50 Cases of Orange Drink. Default decree of condemnation and destruction.** (F. D. C. No. 17333. Sample No. 4756-H.)

**LIBEL FILED:** August 30, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 4, 1945, by the Holly Beverage Co., from Mount Holly, N. J.

**PRODUCT:** 50 cases, each containing 24 bottles, of orange beverage at Philadelphia, Pa. This product was sweetened in part with saccharin.

**LABEL, IN PART:** "Artificial Color Orange Drink Carbonated Beverage Containing Carbonated Water, Sugar, Citric Acid, Orange Oil, and Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, sugar, had been in part omitted from the article; Section 402 (b) (2), a carbonated beverage containing saccharin had been substituted in whole or in part for one sweetened with sugar, which the article was represented to be; and, Section 402 (b) (4), saccharin, a substance having no food value, had been added to the article and mixed and packed with it so as to reduce its quality or strength.

**DISPOSITION:** September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. The empty bottles were ordered retained in the custody of the consignee.

**10006. Adulteration and misbranding of Pineapple Fruit Drink. U. S. v. 95 Cases of Pineapple Fruit Drink. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 17296. Sample No. 7435-H.)

**LIBEL FILED:** August 23, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about July 21, 1945, by the Bay Ridge Packing Co., Rochester, N. Y.

**PRODUCT:** 95 cases, each containing 12 1-quart bottles, of pineapple beverage at Jersey City, N. J. Analysis showed that this product was an artificially flavored solution of water and sugar with phosphoric acid. It contained no citric acid and a negligible amount, if any, of pineapple juice.

**LABEL, IN PART:** (Bottles) "Hawaiian Delight Pineapple Fruit Drink."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, pineapple juice, had been in whole or in part omitted from the article; and, Section 402 (b) (2), an artificially flavored solution of water, sugar, and phosphoric acid had been substituted in whole or in part for "Pineapple Fruit Drink," which the article was represented to be.

Misbranding, Section 403 (a), the name, "Hawaiian Delight Pineapple Fruit Drink," and the label statement, "Contains: Pineapple Juice, Syrup, Imitation Pineapple Flavor, Water, Citric Acid," were false and misleading; and, Section 403 (c), the article was an imitation of another food, and its label failed to bear the word "imitation" and, immediately thereafter, the name of the food imitated.

**DISPOSITION:** November 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS

**10007. Action to enjoin and restrain the manufacture in the District of Columbia and the shipment in interstate commerce of adulterated bakery products. U. S. v. James G. Maselas, trading as the Washington Doughnut Co. Tried to the court. Injunction granted.** (Inj. No. 89.)

**COMPLAINT FILED:** On or about March 14, 1945, District of Columbia, against James G. Maselas, trading as the Washington Doughnut Co., at Washington, D. C. The complaint charged that from on or about March 24, 1944, the defendant had been and would continue manufacturing bakery products under insanitary conditions, whereby the products became, and were, adulterated; and that the defendant had been and would continue introducing and delivering such products into interstate commerce.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), the products had been and were being prepared, packed, and held under insanitary conditions whereby they were contaminated with filth.

**PRAYER OF COMPLAINT:** That the defendant be restrained and enjoined during the pendency of the action and permanently, from manufacturing and from shipping in interstate commerce foods which were adulterated within the meaning of the above-mentioned sections of the law.

**DISPOSITION:** On March 14, 1945, a temporary restraining order was issued against the defendant. Thereafter, consideration was given to the question of granting a preliminary injunction, and, in connection therewith, the court, on March 22, 1945, handed down the following findings of fact and conclusions of law:

MATTHEW F. McGUIRE, *District Judge*: "On the allegations in the Complaint for Injunction which are supported by the facts set forth in the affidavits attached thereto, I find the following facts:

"1. The defendants have been and at the time the temporary restraining order in this cause was served on them, were engaged in the manufacture, production, and distribution of various and sundry bakery products in and from 1125 Seventh St., N. W., Washington, D. C.

"2. The portion of the premises in which said operation has been conducted consist of the entire first floor, basement, and second floor in rear of premises. Portions of said premises, including the wall coverings, ceilings, and flooring on the first floor have been infested with vermin, rats, and various and sundry putrid substances. The rear portion of the premises contained openings which are not adequately sealed to prevent rodent entrance into the plant. Other portion of the premises are in such extreme state of disrepair and disintegration as to afford openings for vermin to make entrances and create unsanitary conditions.

"3. The defendants have been and at the time the temporary restraining order in this action was served on them, were manufacturing within the District of Columbia food that consisted in whole or in part of filthy substances.

"4. The defendants have been and at the time of the temporary restraining order in this action was served on them, were manufacturing within the District of Columbia food that is prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth.

"5. The defendants have been, and at the time of the temporary restraining order in this action was served on them, were introducing or delivering for introduction into interstate commerce food that consists in whole or in part of filthy or putrid substances.

"6. The defendants have been, and at the time the temporary restraining order in this action was served on them, were introducing or delivering for introduction into interstate commerce food that has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth.

"Upon the foregoing facts the following conclusions of law are stated:

"1. The defendants have been and at the time the temporary restraining order in this action was served on them, were manufacturing within the District of Columbia in violation of 21 U. S. C. 331 (g) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4).

"2. The defendants have been and at the time the temporary restraining order in this action was served on them, were introducing or delivering for introduction into interstate commerce in violation of 21 U. S. C. 331 (a) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4)."

On March 22, 1946, a preliminary injunction was issued against the defendant, to be effective until the final hearing of the case. Subsequently the defendant filed an answer denying that it was in the public interest to issue a permanent injunction. A motion for summary judgment was subsequently filed by the Government's attorney, and on May 14, 1946, the motion was granted, and an order was entered permanently enjoining the defendant from manufacturing and introducing and delivering for introduction into commerce in the District of Columbia any food that consisted in whole or in part of filthy or putrid substances or that had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.



**10008. Adulteration and misbranding of enriched bread. U. S. v. Central Baking Co. Plea of guilty. Fine, \$320.** (F. D. C. No. 15550. Sample Nos. 4167-F, 4176-F, 67822-F, 68246-F.)

**INFORMATION FILED:** July 20, 1945, Southern District of Ohio, against the Central Baking Co., a partnership, Cincinnati, Ohio.

**ALLEGED SHIPMENT:** On or about December 7 and 20, 1943, and May 3 and September 13, 1944, from the State of Ohio into the State of Kentucky.

**PRODUCT:** This product consisted of bread which was labeled to indicate that it had been made from enriched flour. The bread was deficient in certain enriching ingredients in the following respects: One shipment contained not more than 0.29 mg. of vitamin B<sub>1</sub> and not more than 0.5 mg. of riboflavin per pound; a second shipment contained not more than 0.85 mg. of vitamin B<sub>1</sub> per pound; a third shipment contained not more than 0.60 mg. of vitamin B<sub>1</sub>, not more than 0.5 mg. of riboflavin, and not more than 9.5 mg. of niacin, per pound; and the fourth shipment contained not more than 0.29 mg. of vitamin B<sub>1</sub>, not more than 0.36 mg. of riboflavin, and not more than 4.19 mg. of niacin, per pound. Bread made from enriched flour should contain not less than 1.1 mg. of vitamin B<sub>1</sub>, not less than 0.7 mg. of riboflavin, and not less than 10 mg. of niacin, per pound.

**LABEL, IN PART:** Enriched Society Bread. (One shipment) "Enriched Society Bread \* \* \* Six ounces of this bread supply you with at least the following amounts or percentages of your minimum daily requirements for these essential food elements: Vitamin B<sub>1</sub> 37½%"; (other shipment) "Enriched for better nutrition one half pound (about 8 slices) of this bread supplies you with at least the following amounts or percentages of your minimum daily requirements for these essential food substances: Thiamine (Vitamin B-1) 55%."

Enriched Twin Society Bread. (One shipment) "Enriched Twin Society Bread \* \* \* Six ounces of this bread supply you with at least the following amounts or percentages of your minimum daily requirements for these essential food elements: Vitamin B<sub>1</sub> 37½%"; (other shipment) "Enriched for better nutrition one-half pound (about 8 slices) of this bread supplies you with at least the following amounts or percentages of your minimum daily requirements for these essential food substances: Thiamin (Vitamin B-1) 55%, Riboflavin (Vitamin B-2) 17.5% Niacin (another 'B' vitamin) 5 milligrams."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents (the vitamins referred to previously) had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the statements on the quoted labels were false and misleading. These statements represented and suggested that the article contained the nutritional elements which are contained in bread made from enriched flour, and that these elements would furnish the proportions of the minimum daily requirements for the enriching ingredients represented on the labels. The article did not contain certain nutritional elements in the amounts contained in bread made from enriched flour, and it would not furnish the proportions of the minimum daily requirements for the certain enriching ingredients represented.

**DISPOSITION:** December 19, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$40 on each count, a total fine of \$320.

**10009. Adulteration of Swedish Rye Brittle Bread. U. S. v. 98 Cases of Swedish Rye Brittle Bread. Default decree of condemnation and destruction.** (F. D. C. No. 17452. Sample No. 29914-H.)

**LIBEL FILED:** September 14, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about August 6, 1945, by the Rye Products Co., from Minneapolis, Minn.

**PRODUCT:** 98 cases, each containing 12 14-ounce packages, of Swedish Rye Brittle Bread at San Francisco, Calif.

**LABEL, IN PART:** "Delicatess Brod Genuine Swedish Style Brittle Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, larvae, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10010. Adulteration of ice cream cones. U. S. v. 35 Cases of Ice Cream Cones. Default decree of condemnation and destruction.** (F. D. C. No. 17015. Sample No. 7215-H.)

**LIBEL FILED:** August 9, 1945, Northern District of New York.

**ALLEGED SHIPMENT:** On or about June 30, 1945, by the Eastern Baking Co., from Chelsea, Mass.

**PRODUCT:** 35 cases each containing 10 boxes of 100 ice cream cones at Schenectady, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, and beetles; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10011. Adulteration of ice cream cones. U. S. v. 25 Cases of Ice Cream Cones. Default decree of condemnation and destruction.** (F. D. C. No. 17324. Sample No. 11653-H.)

**LIBEL FILED:** August 29, 1945, District of Maine.

**ALLEGED SHIPMENT:** On or about July 10, 1945, by the Crown Baking Co., Inc., from Malden, Mass.

**PRODUCT:** 25 cases, each containing 10 cartons, of ice cream cones at Bangor, Maine.

**LABEL, IN PART:** "Pop-Pie Cup Cones."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10012. Adulteration of oyster crackers. U. S. v. 106 Packages and 202 Packages of Oyster Crackers (and 3 other seizure actions against oyster crackers). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17318, 17320 to 17322, incl. Sample Nos. 7906-H, 7908-H, 7909-H, 7911-H, 7912-H.)

**LIBELS FILED:** August 27 and 28, 1945, Eastern and Southern Districts of New York.

**ALLEGED SHIPMENT:** Between the approximate dates of July 23 and August 9, 1945, by the Pennsylvania Baking Co., from Scranton, Pa.

**PRODUCT:** Oyster crackers. 308 packages at New York, N. Y., 242 packages at Long Island City, N. Y., and 472 packages at Brooklyn, N. Y.

**LABEL, IN PART:** (Packages) "8 Pound Gem Salted Oyster Crackers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments.

**DISPOSITION:** September 28 and October 3, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10013. Adulteration of Ry-Krisp Wafers. U. S. v. 42 Cases of Ry-Krisp Wafers (and 2 other seizure actions against Ry-Krisp Wafers). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17035, 17226, 17227. Sample Nos. 9388-H, 18262-H, 18271-H.)

**LIBELS FILED:** August 9 and 28, 1945, Southern District of Iowa and Western District of New York.



**ALLEGED SHIPMENT:** On or about July 16 and 18, 1945, by the Ralston Purina Co., from Minneapolis, Minn.

**PRODUCT:** 42 cases, each containing 18 12-ounce packages, and 14 cases, each containing 24 7¼-ounce packages, of Ry-Krisp Wafers at Des Moines, Iowa; and 99 cases, each containing 9 pounds, of the same product at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 24 and November 5, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

#### CORN MEAL\*

**10014. Adulteration of corn meal. U. S. v. 1,400 Bags, 130 Bags, and 1,622 Bags of Corn Meal. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 17339, 17942. Sample Nos. 375-H, 381-H, 23079-H.)**

**LIBELS FILED:** September 6 and October 26, 1945, Southern District of Florida and Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of July 21 and September 6, 1945, by Alabama Flour Mills, from Decatur, Ala.

**PRODUCT:** Corn meal. 1,400 25-pound bags at Jackson, Tenn., and 130 100-pound bags and 1,622 5-pound bags at Jacksonville, Fla.

**LABEL, IN PART:** "Enriched \* \* \* Mother's Best \* \* \* White Corn Meal," or "Delight Unbolted Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, rodent excreta, rodent hairs, and insect fragments.

**DISPOSITION:** September 17 and November 5, 1945. Setzer's Stores, claimant for the Jacksonville lots, and the Nebraska Consolidated Mills Co., trading as Alabama Flour Mills of Omaha, Nebr., claimant for the Jackson lot, having consented to entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

**10015. Adulteration of corn meal. U. S. v. 903 Bags of Corn Meal. Default decree of condemnation. Product ordered sold for stock feed. (F. D. C. No. 17480. Sample No. 14202-H.)**

**LIBEL FILED:** September 18, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 20, 1945, by the Winchester Milling Co., from Winchester, Ky.

**PRODUCT:** 496 25-pound bags and 407 10-pound bags of corn meal at Portsmouth, Ohio.

**LABEL, IN PART:** "OK Old Kentucky Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** October 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned that it be disposed of as stock feed, under the supervision of the United States marshal.

**10016. Adulteration of corn meal. U. S. v. 692 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17254. Sample No. 24745-H.)**

**LIBEL FILED:** September 6, 1945, Northern District of Mississippi.

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\*See also No. 10041.

**ALLEGED SHIPMENT:** On or about July 14 and 23, 1945, by the Model Mill Co., from Jackson, Tenn.

**PRODUCT:** 692 25-pound bags of corn meal at Winona, Miss.

**LABEL, IN PART:** "Old Style Standard Cream Meal," or "Home Ground Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and webbing.

**DISPOSITION:** October 6, 1945. The Model Mill Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**10017. Adulteration of corn meal. U. S. v. 250 Bags of Corn Meal. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 17460. Sample No. 23328-H.)**

**LIBEL FILED:** September 20, 1945, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about July 25, 1945, by the Neosho Milling Co., Neosho, Mo.

**PRODUCT:** 250 25-pound bags of corn meal at Harrison, Ark.

**LABEL, IN PART:** "Queen Quality Brand White Cream Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, insect fragments, and larvae.

**DISPOSITION:** October 25, 1945. W. C. Davidson and Co., Harrison, Ark., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

**10018. Adulteration of corn meal. U. S. v. 135 Bags of Corn Meal (and 1 other seizure action against corn meal). Default decrees of condemnation. Product ordered delivered to public institutions, for use as animal feed. (F. D. C. Nos. 16486, 17148. Sample Nos. 22694-H, 22970-H.)**

**LIBELS FILED:** On or about June 22 and on August 20, 1945, Western District of Missouri and Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about May 16 and July 17, 1945, by the Blair Elevator Corporation, from Atchison, Kans.

**PRODUCT:** 135 10-pound bags of corn meal at Springfield, Mo., and 280 10-pound bags and 275 25-pound bags of the same product at Jonesboro, Ark.

**LABEL, IN PART:** "Blair's White Fox Cream Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, rodent hair fragments, insects, larvae, and insect fragments.

**DISPOSITION:** August 22 and September 25, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to public institutions, to be used solely for animal feed.

**10019. Adulteration of corn meal. U. S. v. 30 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17215. Sample No. 14832-H.)**

**LIBEL FILED:** August 28, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about August 10, 1945, by the G. E. Conkey Co., from Toledo, Ohio.

**PRODUCT:** 30 100-pound bags of corn meal at Hillsdale, Mich.

**LABEL, IN PART:** "Conkeys Fresh Ground Cornmeal."

**NATURE OF CHARGE:** Adulteration, Section 403 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and rodent excreta fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.



**DISPOSITION:** October 17, 1945. The G. E. Conkey Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

**10020. Adulteration of corn meal. U. S. v. 14 Bales and 85 Bags of Corn Meal (and 2 other seizure actions against corn meal). Default decrees of condemnation for 2 lots; consent decree of condemnation for remaining lot. Product ordered sold, destroyed, and released under bond, respectively. (F. D. C. Nos. 17436, 17589, 18026. Sample Nos. 4851-H, 14428-H, 22700-H, 23501-H.)**

**LIBELS FILED:** September 10 and 20 and October 23, 1945, Southern District of Illinois, Eastern District of Pennsylvania, and Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about February 22, April 3, and May 19, 1945, by the Quaker Oats Co., from St. Joseph, Mo., Cedar Rapids, Iowa, and Akron, Ohio.

**PRODUCT:** Corn meal. 14 bales, each containing 5 10-pound bags, and 85 25-pound bags at Alton, Ill.; 25 shipping bags, each containing 10 5-pound bags, at Mansfield, Ohio; and 199 100-pound bags at Philadelphia, Pa.

**LABEL, IN PART:** "Aunt Jemima White Cream Corn Meal," or "Buckeye Corn Meal Pure Gold."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** On December 4, 1945, no claimant having appeared for the Alton and Mansfield lots, judgments of condemnation were entered and the first lot was ordered sold to be denatured and disposed of as stock feed, and the second lot was ordered destroyed. On December 16, 1945, the Horn and Hardart Baking Co., Philadelphia, Pa., claimant for the Philadelphia lot, having admitted the allegations of the libel, judgment of condemnation was entered and this lot was ordered released under bond to be denatured under the supervision of the Food and Drug Administration and sold as stock feed.

**10021. Adulteration of corn meal. U. S. v. 31 Bags of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 17338. Sample No. 4492-H.)**

**LIBEL FILED:** On or about September 6, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about June 18, 1945, by the Davis Milling Co., Inc., from Norfolk, Va.

**PRODUCT:** 31 bags, each containing 100 pounds, of corn meal at Camden, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** October 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### FLOUR

Nos. 10022 to 10059 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.) The flour reported in Nos. 10060 to 10062 failed to meet the standard for enriched flour.

**10022. Adulteration of flour. U. S. v. 1,960 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17557. Sample Nos. 12232-H to 12235-H, incl.)**

**LIBEL FILED:** September 14, 1945, District of New Hampshire.

**ALLEGED SHIPMENT:** Between the approximate dates of June 25 and July 26, 1945, from Buffalo, N. Y.

**PRODUCT:** 1,960 100-pound bags of flour at Manchester, N. H., in the possession of Genest Brothers, Inc. The product was stored under insanitary conditions after shipment. The bakery was rodent-infested, and urine stains were observed on the bags. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (3), it had been held under insanitary conditions whereby it may have become contaminated with filth.



**DISPOSITION:** October 24, 1945. Genest Brothers, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10023. Adulteration of flour. U. S. v. 540 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17405. Sample No. 14302-H.)

**LIBEL FILED:** September 5, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 3, 1945, by Morris Flour Mills, from Morris, Ind.

**PRODUCT:** 540 140-pound bags of flour at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, beetles, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 7, 1945. Morris Flour Mills, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Food and Drug Administration.

**10024. Adulteration of flour. U. S. v. 282 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** F. D. C. No. 17492. Sample Nos. 16001-H to 16003-H, incl.)

**LIBEL FILED:** October 4, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 14 and May 7 and 25, 1945, from Minneapolis, Minn.

**PRODUCT:** 228 100-pound bags and 54 50-pound bags of flour at La Salle, Ill., in the possession of H. C. Caskey. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination of the flour showed the presence of weevils and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it was contaminated with filth.

**DISPOSITION:** December 4, 1945. H. C. Caskey, claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**10025. Adulteration of flour. U. S. v. 241 Bags of Flour. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 13926. Sample Nos. 61907-F, 61908-F.)

**LIBEL FILED:** October 9, 1944, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 29 and July 28, 1944, by the Burrus Mill and Elevator Co., Fort Worth, Tex.

**PRODUCT:** 86 50-pound bags and 155 25-pound bags of flour at Church Point, La.

**LABEL, IN PART:** "Special Hard Wheat White Dove Flour Enriched," or "Light Crust Flour Enriched Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** November 28, 1944. The Church Point Wholesale Grocery Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10026. Adulteration of flour. U. S. v. 186 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17265. Sample No. 24860-H.)

**LIBEL FILED:** September 7, 1945, Northern District of Mississippi.



**ALLEGED SHIPMENT:** On or about June 16, 1945, by Giessing Flour Mills, from Farmington, Mo.

**PRODUCT:** 186 140-pound bags of flour at Marks, Miss.

**LABEL, IN PART:** "Top Magic Rose Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 27, 1945. The Marks Wholesale Grocery Co., Marks, Miss., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**10027. Adulteration of flour. U. S. v. 115 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17508. Sample No. 23789-H.)

**LIBEL FILED:** October 5, 1945, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 16, 1945, by the Morton Milling Co., from Dallas, Tex.

**PRODUCT:** 115 25-pound bags of flour at Leesville, La.

**LABEL, IN PART:** "La France Flour Bleached Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** December 17, 1945. The De Soto Wholesale Grocery Co., Shreveport, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**10028. Adulteration of flour. U. S. v. 106 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17439. Sample Nos. 29659-H, 29660-H.)

**LIBEL FILED:** September 14, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about July 13, 1945, from Pendleton, Oreg.

**PRODUCT:** 106 bags of flour at San Francisco, Calif., in the possession of Haslett Humboldt Warehouse. The product was stored under insanitary conditions after shipment. The warehouse was badly infested with insects, and the product contained larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10029. Adulteration of flour. U. S. v. 83 Bags of Flour. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 17207. Sample No. 24715-H.)

**LIBEL FILED:** August 28, 1945, Southern District of Mississippi.

**ALLEGED SHIPMENT:** On or about September 2, 1944, by the Humboldt Milling Co., from Humboldt, Tenn.

**PRODUCT:** 83 10-pound bags of flour at Macon, Miss.

**LABEL, IN PART:** "Bleached Flour Blue Ribbon."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 22, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution for conversion into stock feed.

**10030. Adulteration of flour. U. S. v. 77 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17584. Sample No. 4853-H.)

**LIBEL FILED:** September 20, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 10, 1945, by Collen County Mill and Elevator Co., from Dallas, Tex.

**PRODUCT:** 77 100-pound bags of flour at Philadelphia, Pa.

**LABEL, IN PART:** "Best Quality Hawkeye Hi-Gluten."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** December 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10031. Adulteration of flour. U. S. v. 63 Bags of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17445. Sample No. 18272-H.)

**LIBEL FILED:** September 12, 1945, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about June 1, 1945, from Omaha, Nebr., by Omar, Inc.

**PRODUCT:** 63 100-pound bags of flour at Des Moines, Iowa, in the possession of Omar, Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, urine, weevils, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 25, 1945. Omar, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be denatured so that it could not be disposed of for human consumption, under the supervision of the Food and Drug Administration.

**10032. Adulteration of flour. U. S. v. 52 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17481. Sample Nos. 22993-H, 22996-H.)

**LIBEL FILED:** September 21, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about June 22, 1945, by the Gilstar Milling Co., from Steeleville, Ill.

**PRODUCT:** 8 100-pound bags and 44 25-pound bags of flour at Jackson, Tenn.

**LABEL, IN PART:** "Gilstar's Best Plain Bleached Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** November 20, 1945. The marshal having seized 13 100-pound bags of the product, and no claimant having appeared, judgment was entered condemning the seized flour and ordering it destroyed. It was further ordered that the libel be dismissed with respect to the 25-pound bags.

**10033. Adulteration of flour. U. S. v. 27 Bags of Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17462. Sample Nos. 13993-H, 13995-H.)

**LIBEL FILED:** September 14, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 5, 1945, by the Commander Milling Co., from Minneapolis, Minn.

**PRODUCT:** 10 100-pound bags and 17 100-pound bags of flour at Cincinnati, Ohio.

**LABEL, IN PART:** "Conqueror Strong Fancy Clear Flour Bleached," or "Commander Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.



**DISPOSITION:** September 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10034. Adulteration of pastry flour. U. S. v. 126 Bags and 133 Bags of Cake Flour. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17353, 17392. Sample Nos. 12231-H, 12236-H.)

**LIBELS FILED:** September 14, 1945, District of New Hampshire.

**ALLEGED SHIPMENT:** On or about May 22, 1945, from Hammond, Ind.

**PRODUCT:** 259 100-pound bags of cake flour at Manchester, N. H. The product had been stored under insanitary conditions by Kaulbeck-Earle, Inc., Manchester, N. H., after the shipment of the product in interstate commerce. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product was contaminated with urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 24, 1945. Kaulbeck-Earle, Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10035. Adulteration of pastry flour. U. S. v. 57 Bags of Cake Flour. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 13924. Sample No. 61906-F.)

**LIBEL FILED:** October 9, 1944, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about March 31, 1944, by Ballard and Ballard Co., Inc., Louisville, Ky.

**PRODUCT:** 57 100-pound bags of cake flour at Church Point, La.

**LABEL, IN PART:** "Ballard's One Forty Bleached Cake Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** November 28, 1944. The Church Point Wholesale Grocery Co., Church Point, La., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10036. Adulteration of pastry flour. U. S. v. 589 Bags of Pastry Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17264. Sample No. 24746-H.)

**LIBEL FILED:** September 7, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** On or about May 1, 1945, by the Centennial Flouring Mills Co., from Spokane, Wash.

**PRODUCT:** 589 100-pound bags of pastry flour at Marks, Miss.

**LABEL, IN PART:** "Pastry Patent Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 27, 1945. The Marks Wholesale Grocery Co., Marks, Miss., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**10037. Adulteration of pastry flour. U. S. v. 76 Bags of Pastry Flour. Consent decree of forfeiture. Product ordered released to claimant.** (F. D. C. No. 17469. Sample No. 13484-H.)

**LIBEL FILED:** September 18, 1945, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about May 15, 1945, by the Colorado Milling and Elevator Company, from Caldwell, Idaho.

PRODUCT: 76 100-pound bags of pastry flour at Richmond, Ind.

LABEL, IN PART: "Caldwell Pastry Flour Unbleached."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

DISPOSITION: October 12, 1945. The Richmond Baking Company, claimant, having admitted the allegations of the libel, judgment of forfeiture was entered and the product was ordered released to the claimant to be disposed of as hog feed.

**10038. Adulteration of pastry flour. U. S. v. 17 Bags of Pastry Flour. Default decree of condemnation and destruction. (F. D. C. No. 17497. Sample No. 29981-H.)**

LIBEL FILED: October 1, 1945, District of Nevada.

ALLEGED SHIPMENT: On or about June 14, 1945, from Twin Falls, Idaho.

PRODUCT: 17 50-pound bags of pastry flour at Reno, Nev. The product had been stored under insanitary conditions. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination of the flour showed the presence of rodent excreta.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10039. Adulteration of phosphated flour and self-rising flour. U. S. v. 150 Bags of Phosphated Flour and 63 Bags of Self-Rising Flour. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 17231. Sample No. 24720-H.)**

LIBEL FILED: August 29, 1945, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about May 27, 1945, by Arkansas City Flour Mills, from Arkansas City, Kans., and on or about June 13, 1945, by the Dixie Portland Flour Co., from Memphis, Tenn.

PRODUCT: 11 50-pound bags and 139 25-pound bags of phosphated flour, and 11 50-pound bags and 52 25-pound bags of self-rising flour at Brookville, Miss.

LABEL, IN PART: "Enriched Gingham Girl \* \* \* Bleached Flour Phosphate added [or "Self-Rising"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

DISPOSITION: October 2, 1945. The Calmes Grocery Co., Brookville, Miss., having admitted that the products were adulterated as charged, judgment of condemnation was entered and they were ordered released under bond for conversion into hog feed, under the supervision of the Food and Drug Administration.

**10040. Adulteration of phosphated flour and self-rising flour. U. S. v. 517 Bags of Plain Flour and 391 Bags of Self-Rising Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17224. Sample No. 24848-H.)**

LIBEL FILED: September 10, 1945, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about May 25 and June 1 and 12, 1945, by the Nebraska Consolidated Mills Co., from Fremont, Nebr.

PRODUCT: 517 bags of phosphated flour and 391 bags of self-rising flour at Canton, Miss. The bags were of various sizes, containing 100 pounds, 50 pounds, 25 pounds, or 10 pounds of flour.

LABEL, IN PART: "Mothers Best All Purpose Phosphated [or "Self-Rising"] White Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.



**DISPOSITION:** November 2, 1945. Cole Brothers and Fox, Canton, Miss., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond to be converted into hog feed, under the supervision of the Food and Drug Administration.

**10041. Adulteration of phosphated flour, self-rising flour, and corn meal. U. S. v. 348 Bags of Flour (and 1 other seizure action against flour and corn meal). Consent decree of condemnation. Products ordered released under bond.** (F. D. C. Nos. 17250 to 17252, incl. Sample Nos. 24742-H, 24743-H, 24855-H to 24857-H, incl.)

**LIBELS FILED:** September 8, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** Between the approximate dates of December 14, 1944, and July 9, 1945, from St. Joseph, Mo., Leavenworth, Kans., and Clarksville, Tenn.

**PRODUCT:** 1,252 bags and 18 barrels of self-rising and phosphated flour, and 100 bags of corn meal at Kosciusko, Miss.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** September 17, 1945. The cases having been consolidated, and the Attala County Poultry and Feed Co., Kosciusko, Miss., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**10042. Adulteration of phosphated flour. U. S. v. 54 Bags of Phosphated Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17237. Sample No. 24078-H.)

**LIBEL FILED:** On or about September 10, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** On or about July 7, 1945, by the Fort Collins Flour Mills Co., from Fort Collins, Colo.

**PRODUCT:** 54 50-pound bags of phosphated flour at Clarksdale, Miss.

**LABEL, IN PART:** "Bleached Phosphated Flour Snow Drift Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** November 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10043. Adulteration of phosphated flour. U. S. v. 92 Bags of Phosphated Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17390. Sample No. 1024-H.)

**LIBEL FILED:** September 13, 1945, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about July 10, 1945, from Abilene, Kans.

**PRODUCT:** 92 50-pound bags of phosphated flour at Bowdon, Ga., in possession of the Roop Grocery Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the flour was contaminated with rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 24, 1945. The Roop Grocery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

**10044. Adulteration of plain flour, self-rising flour, and phosphated flour. U. S. v. 230 Bags and 1,014 Bags of Flour. Default decrees of condemnation. Product ordered delivered to a public institution.** (F. D. C. Nos. 16884, 16885. Sample Nos. 24496-H, 24497-H, 24633-H, 24634-H.)

**LIBELS FILED:** On or about August 13, 1945, Southern District of Alabama.



**ALLEGED SHIPMENT:** On or about May 19 and 28 and June 2, 1945, from Shawnee, Okla., and Wichita Falls, Tex.

**PRODUCT:** 23 10-pound bags of plain flour, 364 10-pound bags and 482 25-pound bags of self-rising flour, and 254 10-pound bags and 121 25-pound bags of phosphated flour at Mobile, Ala., in possession of the Merchants Supply Company. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the flour contained weevils and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** October 29, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to a public institution, for use as stock feed.

**10045. Adulteration of phosphated flour and self-rising flour. U. S. v. 45 Bags, etc., of Flour. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17420 to 17424, incl. Sample Nos. 24747-H to 24749-H, incl., 24862-H, 24863-H.)

**LIBEL FILED:** September 10, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** Between the approximate dates of September 14, 1944, and June 11, 1945, by the Shawnee Milling Co., Shawnee, Okla., the Crete Mills, Crete, Nebr., the Burley Flour Mills, Burley, Idaho, the Larabee Flour Mills Co., Clinton, Mo., and the Ismert-Hincke Milling Co., Topeka, Kans.

**PRODUCT:** 180 5-pound bags, 306 10-pound bags, 645 25-pound bags, and 156 50-pound bags of flour at Drew, Miss. Samples of these products were found to contain weevils and larvae.

**LABEL, IN PART:** "Shawnee's Best Flour Bleached Self-Rising," "Victor Self-Rising Flour Bleached," "Bleached Phosphated [or "Self-Rising"] Flour," "Larabee's Airy Flour Enriched Self-Rising," or "White Dough (White Doe) Flour Phosphated Self-Rising Bleached."

**NATURE OF CHARGE:** The product was liable to seizure under Section 304.

**DISPOSITION:** September 10, 1945. The Sunflower Grocery Co., Drew, Miss., claimant, having consented to the entry of a decree, the court entered judgment finding the product adulterated in violation of Section 402 (a) (3) and ordered that the flour be condemned. The decree provided further that the product might be released under bond, conditioned that it be converted into stock feed or other commercial products.

**10046. Adulteration of plain flour, self-rising flour, and phosphated flour. U. S. v. 145 Bags of Phosphated Flour (and 2 other seizure actions against flour). Decrees of condemnation. Portion of product ordered delivered to a charitable institution; remainder ordered released under bond.** (F. D. C. Nos. 17198, 17347, 17912. Sample Nos. 1401-H, 1402-H, 23235-H, 35661-H.)

**LIBELS FILED:** August 23, September 10, and October 10, 1945, Eastern and Western Districts of Arkansas and Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about September 9, 1944, and January 4, April 7, and July 13, 1945, by the Canadian Mill and Elevator Co., from El Reno, Okla.

**PRODUCT:** 145 50-pound bags of phosphated flour at Fort Smith, Ark., 52 25-pound bags of self-rising flour at Bowdon, Ga., and 64 50-pound bags of plain flour at Morrilton, Ark.

**LABEL, IN PART:** "Golden Beauty Fancy \* \* \* Flour," or "Honest Abe \* \* \* Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of beetles and larvae.

**DISPOSITION:** On September 13 and October 24, 1945, the McCord Wholesale Grocery Co. and the Roop Grocery Co., claimants for the lots located at Fort Smith, Ark., and Bowdon, Ga., respectively, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered



released under bond to be disposed of for stock feed or for purposes other than for human consumption, under the supervision of the Federal Security Agency.

On December 20, 1945, no claimant having appeared for the Morrilton lot, judgment of condemnation was entered and the product was ordered delivered to a charitable institution to be used as animal feed.

**10047. Adulteration of plain flour, phosphated flour, and self-rising flour. U. S. v. 79 Bags of Plain Flour (and 2 other seizure actions against flour). Decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 17427, 17509, 18224. Sample Nos. 1311-H, 23790-H, 24721-H.)**

**LIBELS FILED:** September 12, October 5, and November 13, 1945, Northern District of Mississippi, Western District of Louisiana, and Southern District of Florida.

**ALLEGED SHIPMENT:** Between the approximate dates of June 14 and August 22, 1945, by Arkansas City Flour Mills, from Arkansas City, Kans.

**PRODUCT:** 183 50-pound bags, 395 25-pound bags, and 259 10-pound bags of self-rising and phosphated flour at Tupelo, Miss., 151 25-pound bags of self-rising flour and 26 50-pound bags of phosphated flour at Leesville, La., and 79 100-pound bags of plain flour at Jacksonville, Fla.

**LABEL, IN PART:** "Bleached Self-Rising Flour [or "Phosphate Added"] \* \* \* Stout's Delicious Flour," "Gingham Girl Self-Rising [or "Phosphated"] Flour Enriched," or "Kamel Bleached Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of larvae, weevils, and insect parts.

**DISPOSITION:** October 11 and December 4 and 17, 1945. The Lee Wholesale Grocery Co., Tupelo, Miss., the De Soto Wholesale Grocery Co., Inc., Shreveport, La., and the Dixie-Portland Flour Co., Jacksonville, Fla., having appeared as claimants, judgments of condemnation were entered and the products were ordered released under bond. The decrees ordered that the products be disposed of in compliance with the law, under the supervision of the Federal Security Agency. The decrees filed with respect to the Tupelo and Jacksonville lots provided specifically that these lots be converted into stock feed.

**10048. Adulteration of self-rising flour and phosphated flour. U. S. v. 85 Bags of Self-Rising Flour and 90 Bags of Phosphated Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17255. Sample No. 24858-H.)**

**LIBEL FILED:** September 6, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** On or about April 6 and May 16, 1945, by the C. Becker Milling Co., from Red Bud, Ill.

**PRODUCT:** 30 50-pound bags and 55 25-pound bags of self-rising flour and 39 50-pound bags and 51 25-pound bags of phosphated flour at Winona, Miss.

**LABEL, IN PART:** "Self-Rising Good Luck Bleached Flour," or "Bleached Calcium Phosphate Added Soft Wheat White Lily High Patent Bread and Pastry Flour Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** October 6, 1945. L. E. Townsend and Co., Winona, Miss., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

**10049. Adulteration of self-rising flour and phosphated flour. U. S. v. 125 Bags of Self-Rising Flour and 70 Bags of Phosphated Flour (and 1 other seizure action against flour). Decrees of condemnation. Portions of product ordered released under bond; remainder ordered delivered to a charitable institution. (F. D. C. Nos. 17223, 17741. Sample Nos. 1210-H, 1211-H, 24854-H.)**

**LIBELS FILED:** September 10 and October 4, 1945, Southern District of Massachusetts and Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about May 7 and 10 and June 7, 1945, by the Trenton Milling Co., from Trenton, Ill.



**PRODUCT:** 125 5-pound bags and 70 25-pound bags of self-rising flour and 36 25-pound bags of phosphated flour at Canton, Miss., and 475 10-pound bags and 83 50-pound bags of self-rising flour at Macon, Ga.

**LABEL, IN PART:** "Self-Rising Flour Bleached Angel Food Extra Short Patent," "Bleached Enriched Self-Rising [or "Phosphated"] Flour Easter Lily High Patent Flour," and "Self-Rising Lovely Bleached Flour Highest Patent."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of larvae and weevils.

**DISPOSITION:** On October 8, 1945, the Modern Grocery Co., Macon, Ga., claimant for the Macon lots, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency. On November 7, 1945, no claimant having appeared for the Canton lots, judgment of condemnation was entered and the products were ordered delivered to a charitable institution to be converted into stock feed.

**10050. Adulteration of self-rising flour and phosphated flour. U. S. v. 795 Bags of Self-Rising Flour and Phosphated Flour. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 17233. Sample Nos. 24851-H to 24853-H, incl.)**

**LIBEL FILED:** September 10, 1945, Southern District of Mississippi.

**ALLEGED SHIPMENT:** Between the approximate dates of May 24 and July 17, 1945, by Arkansas City Flour Mills, from Arkansas City, Kans.; Dixie Portland Flour Mills, from Memphis, Tenn.; and Higginsville Flour Mills, from Higginsville, Mo.

**PRODUCT:** 56 5-pound, 186 10-pound, 8 25-pound, 26 50-pound, and 3 100-pound bags of phosphated flour, and 72 5-pound, 200 10-pound, 187 25-pound, 54 50-pound, and 3 100-pound bags of self-rising flour at Canton, Miss.

**LABEL, IN PART:** "Melody Milled for \* \* \* Washington Flour Mill, Washington, Mo.," "Flour Tink's White Rose Milled for \* \* \* Missouri Flour Co. Malden, Mo.," or "Washington Flour Mill White Silk Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

**DISPOSITION:** November 2, 1945. Cole Brothers & Fox, Canton, Miss., claimant, having admitted that the flour was adulterated, judgment of condemnation was entered and the products were ordered released under bond to be converted into hog feed, under the supervision of the Food and Drug Administration.

**10051. Adulteration of self-rising flour and phosphated flour. U. S. v. 352 Bags of Self-Rising Flour and 602 Bags of Phosphated Flour. Default decree of condemnation and destruction. (F. D. C. No. 17266. Sample No. 24861-H.)**

**LIBEL FILED:** On or about September 10, 1945, Northern District of Mississippi.

**ALLEGED SHIPMENT:** On or about April 3, 1945, by the Ballard and Ballard Co., Inc., from Louisville, Ky.

**PRODUCT:** 352 bags of self-rising flour and 602 bags of phosphated flour at Tutwiler, Miss.

**LABEL, IN PART:** (Bags) "10 [or "25" or "50"] Lbs. Ballard's \* \* \* Oblisk Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, and insect fragments.

**DISPOSITION:** November 16, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**10052. Adulteration of self-rising flour. U. S. v. 58 Bags of Self-Rising Flour. Default decree of condemnation and destruction. (F. D. C. No. 17232. Sample No. 24080-H.)**

**LIBEL FILED:** On or about September 10, 1945, Northern District of Mississippi.



**ALLEGED SHIPMENT:** On or about May 3, 1945, by the Nebraska Consolidated Mills Co., from Grand Island, Nebr.

**PRODUCT:** 58 50-pound bags of self-rising flour at Clarksdale, Miss.

**LABEL, IN PART:** "Mother's Best All Purpose Self-Rising Flour Enriched."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** November 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10053. Adulteration of rice flour. U. S. v. 549 Bags of Rice Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17464. Sample No. 12951-H.)**

**LIBEL FILED:** September 14, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 11, 1945, by C. E. Grossjean, from San Francisco, Calif.

**PRODUCT:** 549 100-pound bags of rice flour at Cincinnati, Ohio.

**LABEL, IN PART:** "Hallmark Rice Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect parts.

**DISPOSITION:** November 21, 1945. The Cincinnati Bakers Supply Company, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Food and Drug Administration.

**10054. Adulteration of rice flour. U. S. v. 370 Bags of Rice Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17449. Sample No. 18065-H.)**

**LIBEL FILED:** September 20, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 7, 1945, by the Farmers Rice Growers Cooperative, from Sacramento, Calif.

**PRODUCT:** 370 100-pound bags of rice flour at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils.

**DISPOSITION:** December 14, 1945. The Farmers Rice Growers Cooperative, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

**10055. Adulteration of rice flour. U. S. v. 28 Bags of Rice Flour. Default decree of condemnation and destruction. (F. D. C. No. 17398. Sample No. 13991-H.)**

**LIBEL FILED:** August 31, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 11, 1945, from San Francisco, Calif.

**PRODUCT:** 28 100-pound bags of rice flour at Cincinnati, Ohio.

**LABEL, IN PART:** "Hallmark Rice Flour SH Manufactured by Stein-Hall Chicago—New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

**DISPOSITION:** September 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10056. Adulteration of rye flour. U. S. v. 24 Bags of Rye Flour. Default decree of condemnation and destruction. (F. D. C. No. 17220. Sample No. 13754-H.)**

**LIBEL FILED:** September 7, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 28, 1945, by the Jaeger Milling Co., from Astico, Wis.

**PRODUCT:** 24 100-pound bags of rye flour at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** November 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10057. Adulteration of whole wheat flour and plain flour. U. S. v. 11 Bags of Whole Wheat Flour and 14 Bags of Plain Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17407. Sample Nos. 12999-H, 13000-H.)

**LIBEL FILED:** September 6, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 24 and February 7, 1945, by the Cannon Valley Milling Co., from Minneapolis and Cannon Falls, Minn., respectively.

**PRODUCT:** 11 100-pound bags of whole wheat flour and 14 100-pound bags of plain flour at Cincinnati, Ohio.

**LABEL, IN PART:** "Vanity Fair Whole Wheat Flour," or "Sky Pilot First Clear Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10058. Adulteration of whole wheat flour. U. S. v. 20 Bags of Flour. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 17487. Sample No. 14521-H.)

**LIBEL FILED:** September 25, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 16, 1945, by the Eagle Roller Mill Co., from New Ulm, Minn.

**PRODUCT:** 20 100-pound bags of flour at Dayton, Ohio.

**LABEL, IN PART:** "Gold Coin Whole Wheat Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

**DISPOSITION:** December 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for conversion into stock feed.

**10059. Adulteration of whole wheat flour. U. S. v. 19 Bags of Whole Wheat Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17285. Sample No. 14303-H.)

**LIBEL FILED:** August 31, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 21, 1945, by the Lawrenceburg Roller Mills, Division of Acme Evans Co., from Indianapolis, Ind.

**PRODUCT:** 19 140-pound bags of whole wheat flour at Cincinnati, Ohio.

**LABEL, IN PART:** "Special Whole Wheat Flour \* \* \* Noblesville Milling and Elevator Division of Acme Evans Co., Indianapolis, Ind."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** September 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10060. Adulteration and misbranding of enriched flour. U. S. v. 34 Bales and 48 Bales of Enriched Flour. Default decree of condemnation and destruction.** (F. D. C. No. 17603. Sample Nos. 14203-H, 14204-H.)

**LIBEL FILED:** September 27, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 22 and May 25, 1945, by the Lawrenceburg Roller Mills, Division of Acme Evans Co., Indianapolis, Ind.

**PRODUCT:** 82 bales, each containing 10 5-pound bags, of enriched flour at Portsmouth, Ohio.



**LABEL, IN PART:** (Portion) "Vitamin and Iron Enriched Hi-Boy [or "Tender-Tex Enriched"] Flour Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, thiamine (vitamin B<sub>1</sub>), had been in part omitted from both lots, and, in addition, iron had been in part omitted from one lot.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched flour since one lot contained approximately 1.21 milligrams of thiamine and the other lot contained approximately 0.63 milligram of thiamine and 9.04 milligrams of iron per pound. The standard of identity for enriched flour requires that it contain in each pound not less than 2.0 milligrams of thiamine and not less than 13.0 milligrams of iron.

**DISPOSITION:** November 29, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10061. Adulteration and misbranding of enriched flour. U. S. v. 50 Bales of Enriched Flour. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17282. Sample No. 21743-H.)

**LIBEL FILED:** On or about September 13, 1945, District of Kansas.

**ALLEGED SHIPMENT:** On or about June 16, 1945, by the Quaker Oats Co., from St. Joseph, Mo.

**PRODUCT:** 50 bales, each containing 5 10-pound bags, of enriched flour at Kansas City, Kans. Examination showed that the product contained approximately 1.5 milligrams of thiamine (vitamin B<sub>1</sub>) per pound, whereas the definition and standard of identity for enriched flour requires not less than 2.0 milligrams of thiamine per pound.

**LABEL, IN PART:** "Fancy Patent Shurfine Enriched Flour Bleached National Retailer-Owned Grocers, Inc. Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, thiamine (vitamin B<sub>1</sub>), had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched flour.

**DISPOSITION:** November 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

**10062. Adulteration and misbranding of enriched flour. U. S. v. 246 Bags and 94 Bags of Enriched Flour. Decree of condemnation. Product ordered delivered to charitable and public welfare institutions.** (F. D. C. No. 17315. Sample Nos. 13289-H, 13467-H.)

**LIBEL FILED:** August 27, 1945, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about March 20, 1945, by the Abilene Flour Mills Co., from Abilene, Kans.

**PRODUCT:** 246 5-pound bags and 94 10-pound bags of enriched flour at Covington, Ky.

**LABEL, IN PART:** "No-Risk Guaranteed Flour \* \* \* Enriched Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, thiamine (vitamin B<sub>1</sub>), had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched flour, since the definition and standard requires that enriched flour shall contain not less than 2.0 milligrams of thiamine (vitamin B<sub>1</sub>) per pound, whereas the flour contained approximately (5-pound bag lot) 1.50 and (10-pound bag lot) 1.57 milligrams of thiamine per pound.

**DISPOSITION:** October 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable and public welfare institutions.

#### MACARONI AND NOODLE PRODUCTS

**10063. Adulteration of macaroni and spaghetti. U. S. v. B. Filippone & Co. Plea of guilty. Fine, \$750.** (F. D. C. No. 10631. Sample Nos. 23715-F, 23716-F, 45132-F, 56524-F, 56527-F.)

**INFORMATION FILED:** October 1, 1945, District of New Jersey, against B. Filippone & Co., a corporation, Passaic, N. J.



**ALLEGED SHIPMENT:** July 6 and 8, 1943, from the State of New Jersey into the States of Pennsylvania and New York.

**LABEL, IN PART:** "Puccini Brand \* \* \* Macaroni," "La Perla Brand \* \* \* Alphabets," "La Perla \* \* \* Macaroni," "Filippone Gluten Spaghetti," or "La Perla Brand Spaghetтини With Added Gluten."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of whole larvae and pupae, larvae fragments, insect fragments, rodent hair fragments, hairs resembling rodent hairs, and a cat hair fragment; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** November 9, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150 on each count, a total fine of \$750.

**10064. Adulteration of macaroni and noodle products. U. S. v. Italian American Paste Co., Inc. Plea of guilty to count 1; plea of nolo contendere to remaining counts. Fine, \$200. (F. D. C. No. 16592. Sample Nos. 84435-F, 29353-H, 29356-H, 29359-H.)**

**INFORMATION FILED:** November 1, 1945, Northern District of California, against the Italian American Paste Co., Inc., San Francisco, Calif.

**ALLEGED SHIPMENT:** On or about November 3, 1944, and February 27 and March 3, 1945, from the State of California into the State of Nevada.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, rodent hair fragments, and unidentified hairs; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** November 19, 1945. A plea of guilty to count 1 of the information and a plea of nolo contendere to the remaining counts having been entered on behalf of the defendant, the court imposed fines of \$50 on each of the 4 counts.

**10065. Adulteration of macaroni and noodle products. U. S. v. 10 Cases of Elbow Macaroni, 6 Cases of Spaghetтини, 7 Cases of Spaghetti, and 14 Cases of Egg Noodles. Default decree of destruction. (F. D. C. No. 17317. Sample Nos. 10341-H to 10344-H, incl.)**

**LIBEL FILED:** August 28, 1945, Northern District of West Virginia.

**ALLEGED SHIPMENT:** On or about July 16, 20, and 30, 1945, by the Potter-McCune Co., from McKeesport, Pa.

**PRODUCT:** 23 20-pound cases and 14 cases, each containing 12 1-pound packages, of macaroni and noodle products at Morgantown, W. Va.

**LABEL, IN PART:** "Excelsior Eagle Brand 100% Semolina Paste Alimentari Elbow Macaroni [or "Spaghetтини," or "Spaghetti"]," or "Boehm's Mother's Pure Egg Noodles \* \* \* Manufactured by W. Boehm Company, Pittsburgh, Penna."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** October 16, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**10066. Adulteration of macaroni products. U. S. v. 17 Cases and 36 Cases of Macaroni Products. Default decrees of condemnation and destruction. (F. D. C. Nos. 16792, 16793. Sample Nos. 10103-H, 10545-H.)**

**LIBELS FILED:** July 10, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 28 and June 4, 1945, by Alfonso Gioia and Sons, from Rochester, N. Y.



PRODUCT: 17 cases, each containing 20 pounds, of macaroni at Aliquippa, Pa., and 36 cases, each containing 24 6-ounce packages, of macaroni products at Pittsburgh, Pa.

LABEL, IN PART: "Mezzani Extra Fancy No. 1 Alfonso Gioia Brand," or "Bravo Brand Pastina Macaroni Products Made From No. 1 Semolina & Egg Yolks."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, rodent hair fragments, and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 21, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

**10067. Adulteration of macaroni products. U. S. v. 24 Cases of Macaroni Products. Default decree of condemnation and destruction.** (F. D. C. No. 16794. Sample Nos. 10541-H to 10544-H, incl.)

LIBEL FILED: July 10, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 28, 1945, by Alfonso Gioia, from Rochester, N. Y.

PRODUCT: 24 cases, each containing 20 pounds, of macaroni products at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 21, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**10068. Adulteration of macaroni. U. S. v. 90 Cases and 43 Cases of Macaroni. Default decrees of condemnation and destruction.** (F. D. C. Nos. 17458, 17666. Sample Nos. 13487-H, 16567-H.)

LIBELS FILED: September 20 and 27, 1945, Northern and Southern Districts of Indiana.

ALLEGED SHIPMENT: On or about August 8, 1945, by the Sunshine Macaroni Co., Chicago, Ill.

PRODUCT: 90 cases and 43 cases, each containing 20 pounds, of macaroni at Fort Wayne and Richmond, Ind., respectively.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and fragments resembling rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 5 and 22, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10069. Adulteration and misbranding of chicken ravioli. U. S. v. 349 Cases of Chicken Ravioli. Default decree of condemnation and destruction.** (F. D. C. No. 15263. Sample No. 17101-H.)

LIBEL FILED: February 21, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 15, 1944, by the Great Atlantic and Pacific Tea Co., from Scranton, Pa.

PRODUCT: 349 cases, each containing 24 1-pound jars, of chicken ravioli at Chicago, Ill. This product contained a small amount of chicken gizzards and no other chicken ingredient.

LABEL, IN PART: "Armada Italian Gusto Chicken Ravioli."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and cat hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.



Misbranding, Section 402 (a), the name "chicken ravioli" and the statement "chicken" in the list of ingredients on the label were false and misleading as applied to an article containing chicken gizzards as the sole chicken ingredient.

**DISPOSITION:** June 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**10070. Action to restrain the enforcement of an order for the exportation or destruction of adulterated wheat. John T. Bowman, Master of SS James J. Hill, v. Allen T. Retzlaff, Chief, Baltimore Station of Food and Drug Administration, and George T. Cromwell, Collector of Customs, Port of Baltimore. Tried to the court. Complaint dismissed.**

On or about January 24, 1946, a complaint was filed in the United States District Court for the District of Maryland on behalf of John T. Bowman, Master of the SS James J. Hill, seeking to restrain the enforcement of an order directing the exportation or destruction of some 40,000 bushels of adulterated wheat. The facts upon which the complaint was based are given in the court opinion.

An answer to the complaint was filed on behalf of the defendants on February 13, 1946, and thereafter the case came on for trial before the court. At the conclusion of the trial, the matter was taken under advisement by the court, and, on April 4, 1946, the court handed down the following opinion:

**CHESNUT, District Judge:** "In this case the master of the SS 'James J. Hill' seeks an injunction against the enforcement of an order of Gilbert A. Dailey, Collector of the Port of Baltimore, which required that 40,843 bushels of Canadian wheat theretofore provisionally entered for importation into the United States 'must be exported, or destroyed, under custom supervision.' The respondents are George T. Cromwell, Collector of Customs (successor to Gilbert A. Dailey) and Allen T. Retzlaff, Chief of the Baltimore Station Food and Drug Administration of Federal Security Agency. They have answered justifying the order under section 801 of the Federal Food Drug & Cosmetic Act of 1938 (21 USCA, s. 381), which deals with imports and exports.

"Section 381 (so far as here material) provides that the Secretary of the Treasury shall deliver to the Federal Security Administrator samples of food offered for import into the United States, giving notice thereof to the owner or the consignee 'who may appear before the Federal Security Administrator and have the right to introduce testimony.' If it is found that the article is 'adulterated' 'then such article shall be refused admission' and 'unless such article is exported by the consignee within three months, it must be destroyed.' By section 342 (a) 'food shall be deemed adulterated (3) if it consists in whole or in part of any filthy, putrid or *decomposed substance or if it is otherwise unfit for food.*' [Italics supplied.]

"The position of the respondents is that in due course they have administratively determined that the wheat was unfit for food. The complainant attacks this position on two grounds: (1) that there was no substantial evidence before the respondents that the wheat was unfit for food and that their action is therefore arbitrary and capricious; and (2) that the Federal Security Administrator did not afford the plaintiff a fair hearing. Extended testimony was heard in court upon these issues and the case taken under advisement. After consideration I have reached the conclusion that the injunction applied for must be denied and the complaint dismissed.

"I find the material facts to be as follows:

"1. Prior to September 13, 1945, about 40,000 bushels of Canadian wheat were shipped by rail from Canada to Baltimore and there transhipped to the SS 'James J. Hill,' a government owned vessel. The wheat was consigned to an agency of the French Government at Casablanca, Morocco. The 'Hill' sailed from Baltimore on September 13, 1945. The next morning it was discovered that there were ten feet of water in No. 1 hold, where the wheat was stowed, by reason, as it was later found, of an influx of water through a plumbing fixture which ought to have been blocked off when the vessel was not being used as a troop-carrier but which had been opened while the vessel was in port. The 'Hill' proceeded to Hampton Roads, Virginia, where it found sufficient port facilities unavailable and consequently returned to Baltimore,



arriving September 16, 1945. Discharge of all grain from the watered hold was immediately undertaken and the grain was entered at the Custom House at Baltimore by John F. Connor, a broker acting on behalf of the owner of the grain.

"2. On September 24, 1945, the Collector of Customs served on Connor an order requiring the wheat to be held intact pending analysis of samples and advising that failure of the goods to comply with the requirements of the Food and Drug Act would result in an order for its exportation or destruction. The next day the Chief of the Baltimore Station Food & Drug Administration notified Connor in writing that inspection and analysis of the samples showed the wheat to be adulterated within the meaning of section 402 (a) of the Food Drug & Cosmetic Act (21 USCA, s. 342 (a)) since it consisted in whole or in part of a filthy, putrid or decomposed substance, or was otherwise unfit for food. 'Product is water damaged; grains hot and sour.' The notice fixed a hearing date three days later 'at which time and place you may be present and submit testimony, or at or before which time you may file a statement in writing.'

"3. It seems to have been conceded at that hearing as at the hearing in this court that the wheat in its then condition was unfit for importation. On September 27, 1945, Connor made application for the release of 5,000 bags of wheat found to be undamaged by water and also for permission to re-condition the damaged wheat by blowing, cleaning and drying and thus stopping further decomposition and deterioration. This permission was granted but with the following condition: 'However, before issuing conditional release providing for final re-conditioning and disposition of the damaged wheat it must be clearly understood just how you plan to accomplish this, for which purpose we are enclosing another blank application in duplicate. On receipt of this application stating the purpose to which the wheat is to be put after re-conditioning and also outlining the method to be used in re-conditioning, we shall issue the conditional release.'

"4. Regulations have been published for administration of the Act. No. 2.309 provides for relabelling or re-conditioning an article to bring it within compliance with the Act. It provides that the owner or consignee may make request in writing for such re-conditioning or other action to render the article not a food within the meaning of the Act. 'Such request shall propose the labelling to be used and any other act to be done for such purpose and shall specify the time and place when such labelling or other act is to be done.' If and when it has been done and in its changed condition approved by the Administrator the article may be released from detention.

"5. It appears that the owner or consignee in this case did not make formal written application but did informally and by correspondence with the Administrator request the release of the wheat, then in process of being dried out, for use as poultry food, and submitting an offer for the purchase of the dried wheat from a dealer in poultry foods on November 16, 1945; and on November 27, 1945 attorneys for the owner requested a hearing by the Administrator with an opportunity to submit testimony 'as to the present condition of the damaged wheat, and particularly on the question of the fitness of said wheat for animal food'; and stating that they had consulted the Department of Poultry Husbandry at the University of Maryland, College Park, Maryland, and submitted samples of the re-conditioned grain in order that it could be carefully examined and tested to determine its availability as poultry food; and that this proposed test would cover a period of two or three weeks at which time the results of the test would be submitted. The Administrator replied on November 30, 1945 that a hearing under the Act had already been given and that the request for the use of the wheat as poultry feed was denied and declining to accept the invitation to participate in the controlled feeding tests.

"6. On December 11, 1945 the Collector of Customs passed the formal order for the destruction or exportation of the damaged wheat to be complied with in three months. The notice stated 'part of the lot has been dried since detention. Examination of the dried portion of this lot indicates it to be unfit for food of any kind. Undried portion is decomposed or hot and sour.'

"7. Some further informal negotiations or consultation ensued between the parties with a final letter from Mr. L. D. Elliott, Assistant Commissioner of Food and Drugs at Washington, dated January 9, 1946, which stated in part:



As was further pointed out to him (Mr. Robert Williams, attorney for the owners) this Administration cannot agree to the release of this damaged grain for poultry feed purposes irrespective of the outcome of the experiments you plan, nor are we in a position to participate in them. It has been our consistent policy to refuse to acquiesce in the use of moldy material in poultry feed in connection with salvage operations under the seizure section of the Act as well as under its import provisions. This policy is based upon the consensus of opinion among the authorities in the field of Veterinary Medicine who cannot assure us that the feeding of moldy material to poultry would be free of any possibility of adversely affecting the health of the birds. The outcome of any brief tests using some part of the 40,000 bushels involved here would not alter the applicability of our policy based on the consensus above. We have no disposition to close the door to the consideration of any proposals you may wish to make for some other use of this material which will in no way jeopardize public interests. \* \* \* Although there is no provision for an appeal under the import regulations of the Act, you are of course welcome to call at the Administration at any time for a discussion of your problem in connection with the proper disposal of this grain, having in mind the time limit prescribed by the order above.

"8. At the hearing in court the respective parties submitted interesting scientific testimony with respect to the suitability of the dried out grain for use as poultry feed. It was not controverted that the water damaged grain before being dried out was unsuitable for either human or animal food. Dr. Briggs, an expert poultry nutritionist at the University of Maryland testified to the results of experiments over a period of three weeks on chickens and baby chicks to which portions of the dried wheat had been fed. He said the chickens had thrived on the wheat which was mixed with other food, and expressed his opinion that it could be safely used generally for poultry feed. Dr. J. H. Brown, Assistant Professor of Bacteriology at the Johns Hopkins University, an expert in his field, after giving extended testimony upon the general subject expressed the opinion that any danger to the poultry from the use of the dried wheat would be 'remote.' On the other hand, witnesses for the respondents, and particularly Dr. Elliott, Assistant Commissioner of Food & Drugs, also an expert upon the subject, after likewise detailed testimony expressed the opinion that the danger was more than remote. The practical viewpoint upon the subject was expressed by the witness Rieck, extensively engaged in poultry farming on the Eastern Shore of Maryland. He said that in his business he would not take the chance of loss and damage to growing chickens by the use of such damaged wheat, as the saving in cost for the food would not justify the risk of damage that might occur.

"The scientific testimony was to the effect that not all moldy material was necessarily injurious to health. As for instance, the drug penicillin is itself a mold. Various articles of cheese are to some extent decomposed or moldy and are yet edible. But the particular contention of the respondents is that this particular damaged wheat contained a certain amount of aspergillus mold which is generally recognized by standard authorities to be damaging to chickens if the spores are inhaled. Dr. Brown thought it quite unlikely that there would be any such inhalation in the ordinary way in which the wheat mixed with other articles is fed to poultry; but experts for the respondents were of a contrary opinion.

"On these facts the plaintiff contends that the administrative action was arbitrary and capricious and should be enjoined. Consideration of this contention must be related to the particular situation giving rise to the controversy. If the order of the Collector for exportation or destruction was not within the grant of statutory power it should of course be enjoined, even though the statute does not provide for judicial review. *Waite v. Macy*, 246 U. S. 606; *Hannegan, Postmaster General, v. Esquire*, U. S. Sp. Ct. Feb. 4, 1946. By section 381 the Collector of Customs was authorized to refuse admission if the article was 'adulterated.' By section 342 (a) 'food shall be deemed to be adulterated—(3) if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food.' We may put aside in this case the words filthy and putrid, but it is the contention of the government that the damaged wheat was decomposed and otherwise unfit for food. There was substantial evidence, and indeed it is not disputed by the plaintiff, that there was some decomposition in the wet wheat and to some extent at least it was fermented and moldy. The evidence is in conflict as to the extent of this fermentation and also in conflict as to whether the drying of the grain had arrested or merely retarded the process of fermentation. The ultimate question here is, I think, whether the decomposition was so extensive as to



render the grain unfit for food. *Andersen v. United States*, 284 F. 542, 544; *United States v. 200 Cases of Catsup*, 211 F. 780.

"And it is important here to distinguish between the condition of the grain when first offered for importation, and its condition after it had been dried. And it is also very important in this connection to note that there is really no controversy between the parties whether the wet grain before the drying was unfit for food of any kind, animal or human. In its original wet condition it was practically conceded that it was so unfit for any kind of food. The controversy as to its fitness for food is thus limited to the question as to whether after being dried it was fit for poultry feed. And here again on the evidence in the case taken in court the expert testimony was fairly evenly balanced. In my opinion, therefore, it cannot be said that the determination of the Food Administrator is not supported by substantial evidence. The plaintiff's particular contention to the contrary is that the decision of the Administrator was based on only a so-called organoleptic test, that is, by appearance, taste, texture, solubility, viscosity and color. See *Knapp v. Calloway* (D. C. N. Y.) 52 F. 2d. 467, 477. It may be noted, however, that subsequently and in preparation for trial of the case in court, the Food Administrator had expert bacteriological examinations made and submitted evidence therefrom tending to support his decision based on the previous organoleptic tests.

"It is also very important in this case to note that the administrative action was taken in the field of *importation* in which the power of Congress is *exclusive and absolute*. *Buttfield v. Stranahan*, 192 U. S. 470, 493. The rights of the importer are, therefore, only those given in the Act of Congress in this case, 21 USCA, s. 381. And it will be noted that the statute itself deals only with the condition of the article when first offered for importation and its admission or rejection is to be determined by the Collector of Customs on the basis of advice from the Federal Security Administrator whether the samples show that the article offered for import is adulterated. In this case the Administrator did advise the Collector that the article was adulterated (within the meaning of the Act) and it is therefore clear enough that the Collector was authorized to refuse admission to the wheat in its originally tendered condition.

"The plaintiff does not contend to the contrary but bases its present position on subsection (b) of section 381 and on a regulation (2.309) providing under some circumstances for the reconditioning of the article offered for import in order to bring it within compliance with the Act, or to take such action as may be necessary to render it not a food product. Section 381 (b) provides that the Secretary of the Treasury may deliver the article to the consignee 'pending examination and decision in the matter on execution of a bond.' Section 2.309 of the regulations provides that the owner may request the Food Administrator in writing to permit the relabelling or other act with respect to the article necessary to bring it into compliance with the provisions of the Act or to render it not a food, and 'such request shall propose the labelling to be used and any other act to be done for such purpose, and shall specify the time and place at which such proposed labelling or other act is to be done.'

"As we have seen, the Secretary, acting through the Collector, did permit delivery of the grain to the owner before passing his final order of December 11, 1945; but this was only for the limited purpose of drying the grain to prevent further spoilage. And thereafter the owner did not formally request permission to do anything with the grain (except dry it) to render it not a food. Instead thereof what the owner did request was permission to sell the dried grain as poultry feed. And this the Administrator refused to permit because in his expert opinion, based on generally accepted standards and information, it would not be safe for poultry growers to use even the dried grain for chicken feed. It is this action of the Food Administrator that is here attacked as arbitrary and capricious. As I have said, the scientific question presented is a nicely balanced one not free from doubt, but I conclude that the decision of the Food Administrator was not arbitrary or capricious. The plaintiff contends that it should be regarded as arbitrary and capricious because on the evidence injurious effects in poultry raising from the use of this damaged grain are not certain but only possible or conjectural. But I cannot accept this view as established by the preponderance of the evidence, and in



any event it is my opinion that the decision of the Food Administrator on the basis of present scientific knowledge on the subject was not arbitrary or capricious.

"Plaintiff also contends that under the evidence the Administrator did not accord him a fair hearing on this question. As heretofore stated, we are dealing with a subject matter of importation into the United States of articles where the power of Congress is absolute and the rights accorded the importer are only those given by the statute. The statute (s. 381) accords a hearing only after notice to the importer with respect to the samples taken from the bulk of the commodity to determine whether it is properly importable. At the hearing upon notice the only right accorded to the importer is 'to introduce testimony.' Presumably this testimony should be relevant to whether the samples are fairly illustrative of the bulk product, and if so whether the bulk product is properly importable. In the particular case the notice was duly given and the opportunity was afforded the importer to introduce testimony at the appointed time and place. Apparently the right was waived because it was practically conceded that the samples were fairly taken and the bulk product in its then condition was not importable under the Act. The plaintiff's complaint here is not lack of a fair hearing with regard to the samples of the wet grain but to the refusal of the Food Administrator to give a further hearing with respect to the availability of the dried grain for use as poultry feed. The statute does not provide for such a further hearing. Indeed the provision of the regulation referred to is not expressly provided for in the statute itself; but it is in the nature of an act of grace to the importer to recondition the article so that it will not be violative of the Act as a food product but may be used for other proper purposes not inconsistent with the Act, and thus possibly avoid unnecessary monetary loss.

"It is also to be noted that the statute does not provide for judicial review. In this respect the procedure under section 381 is quite different from that taken under other sections of the Food & Drug Act of 1938 relating to domestic commerce, where proceedings for condemnation require judicial procedure. And section 381 as it now stands is an amendment of the prior Act of 1906 (21 USCA, s. 14) in relation to importation, which also required judicial procedure for condemnation. See *Ambruster v. Mellon* (C. A. D. C.) 41 F. 2d. 430, where it was held, under the earlier Act, that the action of the Secretary of the Treasury in *admitting* a certain importation was not subject to judicial review unless capricious or arbitrary. While there is no recorded case of an attack on the Secretary's action under the new Act, it is clear that in the present case the statute makes no provision for judicial review and creates no personal federal rights as the basis for judicial review, so long as the Secretary acted within the scope of his authority under the Act. See *Stark v. Wickard*, 321 U. S. 288.

"We must also bear in mind that the case does not present a question of confiscation by the government of a property right. Indeed the order here sought to be enjoined is merely in the alternative, that is, for exportation or destruction within three months. That period has now passed, but it was understood at the hearing here that the damaged wheat would not be destroyed pending decision of this case. And it appeared further in the evidence that the Administrator was still willing to consider any reasonable proposal from the importer to allow importation of the wheat if effective measures could be taken to use it for purposes other than food. It appears that the importer had an offer for the purchase of the remainder of the dried wheat (about 32,000 bushels) at the price of \$1.40 per bushel for use as poultry feed, and also another provisional offer for the wheat at \$1.00 per bushel for use for purposes other than a food product.

"On the whole case I conclude that the complaint must be dismissed with taxable court costs allowed to the defendants. Counsel may present the appropriate order in due course."

On April 22, 1946, a decree was entered in accordance with the above opinion, ordering that the complaint be dismissed and that the plaintiff or his assigns, as owners of the wheat in question, proceed with its exportation under customs supervision within 30 days from the date of the decree.



**10071. Adulteration of barley grits. U. S. v. 260 Bags of Barley Grits. Default decree of condemnation and destruction.** (F. D. C. No. 17625. Sample No. 12428-H.)

**LIBEL FILED:** October 1, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about February 22, 1945, by the Central Grain and Malting Co., from Piqua, Ohio.

**PRODUCT:** 260 100-pound bags of barley grits at Springfield, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** November 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10072. Adulteration of barley grits. U. S. v. 137 Bags of Barley Grits. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 17401. Sample No. 22699-H.)

**LIBEL FILED:** August 31, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about June 12, 1945, by the Russell-Miller Milling Co., from Minneapolis, Minn.

**PRODUCT:** 137 100-pound bags of barley grits at St. Charles, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and pupae.

**DISPOSITION:** October 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold on condition that the purchaser adopt such safeguards as may be directed by the Food & Drug Administration to insure the disposition of the product for purposes other than human consumption.

**10073. Adulteration of corn grits. U. S. v. 120 Bags of Corn Grits. Default decree of condemnation and destruction.** (F. D. C. No. 17312. Sample No. 790-H.)

**LIBEL FILED:** September 19, 1945, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about March 29, 1945, by the Mt. Vernon Milling Co., from Mount Vernon, Ind.

**PRODUCT:** 118 100-pound bags and 2 48-pound bags of corn grits at Marion, S. C.

**LABEL, IN PART:** "Degerminated Posey County Corn Grits."

**NATURE OF CHARGE:** Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

**DISPOSITION:** October 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10074. Adulteration of rice grits. U. S. v. 283 Bags and 400 Bags of Rice Grits. Default decrees of condemnation. Product ordered sold.** (F. D. C. No. 17468. Sample Nos. 23503-H, 23504-H.)

**LIBELS FILED:** September 13, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about August 22, 1945, by Supreme Rice Mill, from Crowley, La.

**PRODUCT:** 683 100-pound bags of rice grits at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** October 19, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered sold. It was denatured to preclude its use for human consumption, under the supervision of the Federal Security Agency.

**10075. Adulteration of brewers flakes and corn meal grits. U. S. v. 800 Bags of Brewers Flakes and 149 Bags of Corn Meal Grits. Decrees of condemnation. Brewers flakes ordered released under bond; corn meal grits ordered destroyed.** (F. D. C. Nos. 17311, 17709. Sample Nos. 789-H, 14409-H.)

**LIBELS FILED:** On or about September 13, 1945, and October 4, 1945, Eastern District of South Carolina and Northern District of Ohio.



**ALLEGED SHIPMENT:** Between the approximate dates of December 30, 1944, and August 21, 1945, by Illinois Cereal Mills, Inc., from Paris, Ill.

**PRODUCT:** 800 100-pound bags of brewers flakes at Cleveland, Ohio, and 149 100-pound bags of corn meal grits at Hartsville, S. C.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence, in the corn meal grits, of weevils, larvae, and cast skins, and, in the brewers flakes, moths, beetles, larvae, and rodent hairs.

**DISPOSITION:** On October 9, 1945, the Standard Brewing Co., claimant for the brewers flakes, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured and converted into animal feed, under the supervision of the Food and Drug Administration. On October 12, 1945, no claimant having appeared for the corn meal grits, judgment of condemnation was entered and the product was ordered destroyed.

**10076. Adulteration of brewers corn grits and brewers flakes. U. S. v. 154 Bags of Brewers Corn Grits (and 3 other seizure actions against brewers corn grits and brewers flakes). Consent decrees of condemnation. Products ordered released under bond.** (F. D. C. Nos. 17443, 17447, 17470, 17672. Sample Nos. 10803-H, 14211-H, 23502-H, 23505-H.)

**LIBELS FILED:** Between September 10 and 25, 1945, Eastern District of Missouri, Western District of New York, and Southern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of May 25 and July 30, 1945, by the Charles A. Krause Milling Co., from Milwaukee, Wis.

**PRODUCT:** 280 bags and 549 bags of corn grits at St. Louis, Mo., and Buffalo, N. Y., respectively, and 582 bags of brewers flakes at Cincinnati, Ohio. Each bag contained 100 pounds.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, insect parts and fragments, and rodent hairs.

**DISPOSITION:** September 24, and October 1, 8, and 29, 1945. Oliver T. Remmers, trustee for the Gast Brewery, Inc., St. Louis, Mo., and the Griesedieck Brothers Brewing Co., St. Louis Mo., appeared as claimants for the 2 lots seized at St. Louis, Mo.; the Simon Brewery Co., Buffalo, N. Y., appeared as claimant for the Buffalo Lot; and the Heidelberg Brewing Co., Covington, Ky., appeared as claimant for the Cincinnati lot. The claimants having admitted the allegations of the respective libels, judgments of condemnation were entered and the products were ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**10077. Adulteration of brewers grits and brewers barley. U. S. v. 600 Bags and 300 Bags of Brewers Grits and 225 Bags of Brewers Barley. Consent decrees of condemnation. Product ordered released under bond** (F. D. C. Nos. 17640, 17641, 17883. Sample Nos. 2359-H, 2360-H, 3766-H.)

**LIBELS FILED:** October 10 and 11, 1945, Northern District of Ohio and Eastern District of Virginia, respectively.

**ALLEGED SHIPMENT:** On or about August 22 and September 1, 1945, by the Mount Vernon Manufacturing Co., from Mount Vernon, Ind.

**PRODUCT:** 600 100-pound bags of brewers grits and 225 100-pound bags of brewers barley at Norfolk, Va., and 300 100-pound bags of brewers grits at Cleveland, Ohio.

**LABEL, IN PART:** The 600-bag lot of brewers grits was labeled "Sno Fluff Brewers Grits." The other 2 lots were unlabeled.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** October 16 and 31, 1945. The Cleveland-Sandusky Brewing Corporation, Cleveland, Ohio, and the Atlantic Co., Norfolk, Va., claimants, having admitted the material allegations of the libels, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock and poultry feed, under the supervision of the Food and Drug Administration.



**10078. Adulteration of brewers corn grits. U. S. v. 440 Bags of Brewers Corn Grits. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17471. Sample No. 23506-H.)**

**LIBEL FILED:** September 14, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of May 29 and June 4, 1945, by the Decatur Milling Co., from Decatur, Ill.

**PRODUCT:** 440 bags, each containing 100 pounds, of brewers corn grits at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

**DISPOSITION:** October 8, 1945. The Griesedieck Brothers Brewing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10079. Adulteration of brewers grits. U. S. v. 216 Bags of Brewers Grits. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17478. Sample No. 14403-H.)**

**LIBEL FILED:** September 18, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 26, 1945, from Kankakee, Ill.

**PRODUCT:** 216 100-pound bags of brewers grits at Cleveland, Ohio, in the possession of the Cleveland-Sandusky Brewing Corporation. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and the product contained rodent pellets, beetles, larvae, and insect fragments.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 4, 1945. The Cleveland-Sandusky Brewing Corporation, claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be ground and denatured for use as chicken feed, under the supervision of the Food and Drug Administration.

**10080. Adulteration of brewers grits. U. S. v. 225 Bags of Brewers Grits. Default decree of condemnation. Product ordered delivered to a public institution to be denatured and used for feed. (F. D. C. No. 17349. Sample No. 4845-H.)**

**LIBEL FILED:** On September 10, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 3, 1945, by the Evans Milling Co., from Indianapolis, Ind.

**PRODUCT:** 225 100-pound bags of brewers grits at Chester, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** October 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, conditioned that it be denatured under the supervision of the Food and Drug Administration for use as chicken, bird, or animal feed.

**10081. Adulteration of brewers rice. U. S. v. 736 Bags of Brewers Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17244. Sample Nos. 22695-H, 22697-H.)**

**LIBEL FILED:** On or about September 7, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about July 20 and August 2, 1945, by the Louisiana State Rice Milling Co., Inc., from Crowley, and Rayne, La.

**PRODUCT:** 500 and 236 200-pound bags of brewers rice at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article contained rodent excreta, rodent hairs, beetles, larvae, and insect fragments.

**DISPOSITION:** On September 26, 1945, the Jonesboro Rice Mill, Jonesboro, Ark., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of the Federal Security Agency.

**10082. Adulteration of brewers rice. U. S. v. 345 Bags of Brewers Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17243. Sample No. 22696-H.)**

**LIBEL FILED:** August 29, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about June 8, 1945, by the Arkansas State Rice Milling Co., from Carlisle, Ark.

**PRODUCT:** 345 200-pound bags of brewers rice at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of moths, beetles, and larvae.

**DISPOSITION:** On September 26, 1945, the Jonesboro Rice Mill, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of the Federal Security Agency.

**10083. Adulteration of brewers rice hulls. U. S. v. 350 Bags of Brewers Rice Hulls. Consent decree of condemnation. Product ordered released to claimant. (F. D. C. No. 17304. Sample No. 4842-H.)**

**LIBEL FILED:** August 24, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 23, 1945, by Mangels-Scheuermann and Oeters, Inc., from New Orleans, La.

**PRODUCT:** 350 52-pound bags of brewers rice hulls at Camden, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

**DISPOSITION:** September 7, 1945. Charles Bodine, Westville, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released for use as bedding for pigs.

**10084. Adulteration of cereal sausage binder. U. S. v. 5 Barrels and 3 Drums of Cereal Sausage Binder. Default decrees of condemnation and destruction. (F. D. C. Nos. 17240, 17404. Sample Nos. 28778-H, 36376-H.)**

**LIBELS FILED:** August 31 and September 6, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 17 and 23, 1945, by Basic Food Materials, Inc., from Cleveland, Ohio.

**PRODUCT:** 5 250-pound barrels and 3 200-pound drums of cereal sausage binder at Seattle and Vancouver, Wash.

**LABEL, IN PART:** "Whe-Co Binder A blend of corn and wheat cereals."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, insect excreta, beetles, and insect fragments.

**DISPOSITION:** October 23, 1945, and March 25, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10085. Adulteration of corn bread mix. U. S. v. 185 Cases of Corn Bread Mix. Default decrees of condemnation and destruction. Product ordered delivered to a public institution. (F. D. C. Nos. 17494, 17506. Sample Nos. 28780-H, 28781-H.)**

**LIBELS FILED:** September 24 and 29, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 21, 1945, by Red-Ee Foods, Inc., from Los Angeles, Calif.

**PRODUCT:** 92 cases and 93 cases, each containing 24 1-pound packages, of corn bread mix at Tacoma, Wash.

**LABEL, IN PART:** " 'It's a Cinch to Make' Add Water, Mix and Bake! Prepared Corn Bread Mix."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 14, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed. Destruction was effected by utilizing the product for stock feed at a public institution.

**10086. Adulteration of ground oatmeal. U. S. v. 15 Bags of Ground Oatmeal. Default decree of condemnation and destruction.** (F. D. C. No. 17440. Sample No. 9448-H.)

**LIBEL FILED:** September 10, 1945, Western District of New York.

**ALLEGED SHIPMENT:** On or about April 2, 1945, by the Quaker Oats Co., from Akron, Ohio.

**PRODUCT:** 15 100-pound bags of ground oatmeal at Rochester, N. Y.

**LABEL, IN PART:** "Imperial Ground Oatmeal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, larvae, and insect parts.

**DISPOSITION:** October 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10087. Adulteration and misbranding of popcorn. U. S. v. 381 Cartons of Popcorn (and 21 other seizure actions against popcorn). Default decrees of condemnation and destruction.** (F. D. C. Nos. 15689, 16494, 16871, 16909, 17085, 17962 to 17967, incl., 18134, 18136, 18192, 18427, 18786, 18787, 18791, 18863, 18874, 18944, 19022. Sample Nos. 881-H, 1330-H, 4487-H, 5214-H, 5216-H, 8291-H, 10629-H, 11072-H, 11076-H to 11081-H, incl., 12208-H, 12239-H, 12297-H to 12299-H, incl., 13285-H, 13433-H, 14113-H, 17928-H, 20089-H, 36054-H, 48854-H.)

**LIBELS FILED:** Between June 21, 1945, and March 4, 1946, District of Vermont, District of Maine, District of New Jersey, District of Nebraska, District of Maryland, Western District of Kentucky, Southern District of Ohio, Northern District of Illinois, Middle District of Georgia, Southern District of Florida, Middle District of Pennsylvania, Western District of Oklahoma, Southern District of New York, and Southern District of Alabama.

**ALLEGED SHIPMENT:** Between the approximate dates of March 2, 1945, and November 13, 1945, by the Better Taste Popcorn Co., from Anderson and Midletown, Ind.

**PRODUCT:** 2,236 cartons and 783 dozen bags of popcorn. Some of the cartons contained 24 bags of popcorn, and other cartons contained 30 bags, 36 bags, or 48 bags. The bags contained  $\frac{3}{4}$  ounces, 2 ounces, or  $3\frac{1}{4}$  ounces of popcorn. The various lots of the product were located at Burlington and Rutland, Vt.; Mobile, Ala.; Margate City, N. J.; Newburgh, N. Y.; Oklahoma City, Okla.; Reedsville, Pa.; Jacksonville, Fla.; Auburn, Maine; Omaha, Nebr.; Amelia and Cincinnati, Ohio; Chicago, Ill.; Louisville and Russellville, Ky.; Macon, Ga.; and Cumberland, Md. Analysis disclosed that the product contained mineral oil and little or no edible oil. Examination showed that one lot of the product was short-weight.

**LABEL, IN PART:** "Popcorn \* \* \* Ingredients: Popcorn, Edible Oil, Salt, U. S. Certified Color," "Popcorn, Mineral Oil, (Non-Nutritive), Salt, U. S. Certified Color," or "Popcorn Ingredients: Popcorn, Mineral Oil, Salt, U. S. Certified Color."

**NATURE OF CHARGE:** (Portions of product included in 18 seizures) Adulteration, Section 402 (a) (1), the article contained added mineral oil, a deleterious substance, which might have rendered the product injurious to health; and, Section 402 (b) (2), popcorn with artificially colored mineral oil and salt had been substituted for popcorn with edible oil and salt.

(Remainder of product included in 4 seizures) Adulteration, Section 402 (b) (1), a valuable constituent, edible oil, had been in whole or in part omitted; Section 402 (b) (2), popcorn with artificially colored nonnutritive mineral oil had been substituted in whole or in part for popcorn with edible oil; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color;

and, Section 402 (b) (4), artificially colored mineral oil had been mixed and packed with the product so as to reduce its quality or strength and make it appear better or of greater value than it was.

**DISPOSITION:** Between August 8, 1945, and June 7, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10088. Adulteration of popeorn. U. S. v. 50 Bags of Popeorn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 16850. Sample No. 23106-H.)

**LIBEL FILED:** July 13, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about June 26, 1945, by the Better Taste Popcorn Co., from Anderson, Ind.

**PRODUCT:** 50 100-pound bags of popcorn at St. Louis, Mo.

**LABEL, IN PART:** "Davis Hybrid Pop Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets and insect fragments.

**DISPOSITION:** August 17, 1945. The Old Vienna Products Co., St. Louis, Mo., having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10089. Adulteration of popeorn. U. S. v. 150 Bags of Popeorn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17242. Sample No. 13097-H.)

**LIBEL FILED:** August 31, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 9, 1945, by the Wernimont Popcorn Co., Auburn, Iowa.

**PRODUCT:** 150 100-pound bags of popcorn at Delaware, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** October 12, 1945. The Northwest Popcorn and Seed Co., Delaware, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10090. Adulteration of popeorn. U. S. v. 40 Bags of Popeorn. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17503. Sample No. 21897-H.)

**LIBEL FILED:** September 28, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about February 12, 1945, by C. R. Frank, from St. Louis, Mo.

**PRODUCT:** 40 100-pound bags of popcorn at Memphis, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of moths and larvae.

**DISPOSITION:** October 23, 1945. H. L. Botto, Memphis, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by cleaning, under the supervision of the Federal Security Agency. On January 16, 1946, the cleaning operation having proved unsuccessful, and the claimant having returned the goods to the marshal, an amendment to the decree was filed ordering the product denatured and sold for purposes other than human consumption.

**10091. Adulteration of popeorn. U. S. v. 123 Cartons of Popcorn. Default decree of condemnation and destruction.** (F. D. C. No. 17188. Sample No. 7921-H.)

**LIBEL FILED:** August 24, 1945, Northern District of New York.



**ALLEGED SHIPMENT:** On or about March 19, 1945, by the Eppley Pop Corn Co., from Wabash, Ind.

**PRODUCT:** 123 cartons, each containing 36 8-ounce packages, of popcorn at Schenectady, N. Y. The product contained rodent pellets, rodent hair fragments, and rodent-gnawed kernels.

**LABEL, IN PART:** "Eppley's Popcorn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** October 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10092. Adulteration of granulated rice. U. S. v. 6,076 Bags of Granulated Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17284. Sample Nos. 13473-H to 13479-H, incl.)**

**LIBEL FILED:** August 31, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of November 14, 1944, and February 13, 1945, by the Champion Rice Mills of Tennessee, from Memphis, Tenn.

**PRODUCT:** 6,076 100-pound bags of granulated rice at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

**DISPOSITION:** October 12, 1945. The Hudepohl Brewing Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned and used in the manufacture of beer or converted into stock feed, under the supervision of the Food and Drug Administration. Subsequently, an amended decree was entered ordering that the product be utilized in the manufacture of alcohol or distilled spirits.

**10093. Adulteration of wheat middlings. U. S. v. 420 Bags of Wheat Middlings (and 2 other seizure actions against wheat middlings). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 17501, 17702, 17703.) Sample Nos. 19271-H, 19272-H, 19902-H.)**

**LIBELS FILED:** Between September 28, 1945, and October 3, 1945, District of Minnesota; amended libel consolidating all three libels filed October 12, 1945.

**ALLEGED SHIPMENT:** 420 bags shipped by the Hunter Milling Co., from Wellington, Kans., on or about July 23, 1943; 480 bags shipped by the Ismert-Hincke Milling Co., from Topeka, Kans., on or about July 10, 1945; and 500 bags shipped by the International Milling Co., from Davenport, Iowa, on or about June 13, 1945.

**PRODUCT:** 1,400 140-pound bags of wheat middlings at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, insect excreta, cocoons, webbing, and weevils.

**DISPOSITION:** October 24, 1945. The Cream of Wheat Corporation, Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

## CHOCOLATE, SUGAR, AND RELATED PRODUCTS

### CANDY\*

**10094. Action to enjoin and restrain the interstate shipment of candy. U. S. v. Neil M. Morgan, trading as the Morgan Candy Manufacturing Co., and Mrs. Neil M. Morgan, plant manager. Consent decree granting injunction. (Inj. No. 96.)**

**COMPLAINT FILED:** May 12, 1945, Western District of North Carolina, against Neil M. Morgan, doing business as the Morgan Candy Manufacturing Co., at Hickory, N. C., and Mrs. Neil M. Morgan, plant manager. The complaint

\*See also No. 10198.



charged that on or before December 3, 1943, and until May 12, 1945, the defendants had been and were manufacturing under insanitary conditions and shipping in interstate commerce candy which was adulterated and unfit for food.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the candy was adulterated and unfit for food in that it consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hair fragments; and, Section 402 (a) (4), it had been manufactured and prepared under insanitary conditions whereby it may have become contaminated with filth, since the building in which the candy was manufactured was heavily infested with rodents.

**PRAYER OF COMPLAINT:** That the defendants be restrained and enjoined during the pendency of the action and permanently from shipping and causing to be shipped in interstate commerce adulterated candy which had been manufactured or would be manufactured in the future by the defendants.

**DISPOSITION:** On May 25, 1945, the hearing on the petition for preliminary injunction was set ahead by stipulation entered into between counsel for the Government and the defendants. On June 4, 1945, an answer was filed alleging that Neil M. Morgan was in the armed forces of the United States stationed in the South Pacific, and denying that the court had jurisdiction over him. On June 11, 1945, Mrs. Neil M. Morgan, acting as plant manager and partner of the Morgan Candy Manufacturing Co., having consented to the entry of a decree, an injunction was granted restraining her and all representatives of the company from shipping in interstate commerce adulterated candy which had been manufactured or would be manufactured in the future by the Morgan Candy Manufacturing Co.

**10095. Adulteration of candy. U. S. v. 567 Cases of Candy (and 5 other seizure actions against candy). Decrees of condemnation and destruction. Portion of product ordered sold; remainder ordered destroyed or converted into animal feed.** (F. D. C. Nos. 17060, 17457, 17490, 17491, 17581, 17697. Sample Nos. 3235-H, 16004-H, 19705-H, 19706-H, 22195-H, 23882-H, 29926-H.)

**LIBELS FILED:** Between the dates of September 18 and October 5, 1945, District of Minnesota, District of Maryland, Northern District of California, Eastern District of Missouri, Northern District of Texas, and Northern District of Illinois.

**ALLEGED SHIPMENT:** Between the approximate dates of July 2 and July 18, 1945, by the Standard Candy Co., from Philadelphia, Pa.

**PRODUCT:** 567 cases, 522 cases, 682 cases, and 785 cases, each containing 15 boxes of 24 candy bars, and 4,629 boxes and 7,715 boxes, each containing 24 candy bars, at San Francisco, Calif., Minneapolis, Minn., Baltimore, Md., Dallas, Tex., St. Louis, Mo., and Chicago, Ill., respectively.

**LABEL, IN PART:** "Ko-Kets Original Cocoanut Flavored Confection."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, beetles, moths, larvae, insect fragments, insect excreta, webbing, and rodent hair fragments.

**DISPOSITION:** Between October 15 and December 14, 1945. The sole intervener for the Chicago lot having consented to the entry of a decree, and no claimant having appeared for the other lots, judgments of condemnation were entered. The St. Louis lot was ordered sold to be denatured for nonhuman consumption; the Baltimore and Dallas lots were ordered delivered to charitable institutions, for use as animal feed; the Minneapolis lot was ordered converted into animal feed or destroyed; and the Chicago and San Francisco lots were ordered destroyed.

**10096. Adulteration of candy. U. S. v. 397 Cases of Candy. Consent decree of condemnation. Product ordered destroyed.** (F. D. C. No. 17403. Sample Nos. 36368-H to 36370-H, incl.)

**LIBEL FILED:** On or about September 11, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about May 4, 1945, by the Leading Candy Co., from New York, N. Y.

**PRODUCT:** 397 cases each containing 20 boxes of 24 candy bars each at Portland, Oreg.



**LABEL, IN PART:** "Chocolate Covered Leda [or "Peanut"] Bar," or "Surprise Colonel Chocolate Covered."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested, moldy, and fermented candy.

**DISPOSITION:** October 4, 1945. The consignee having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**10097. Adulteration of candy. U. S. v. 365 Cartons of Candy. Default decree of destruction.** (F. D. C. No. 17415. Sample No. 20295-H.)

**LIBEL FILED:** On or about September 25, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of June 8 and 29, 1945, by the Comet Candy Co., from Brooklyn, N. Y.

**PRODUCT:** 365 cartons, each containing 24 bars, of candy at Kansas City, Mo.

**LABEL, IN PART:** "Comet Pick Up Net Wt. 1¼ Oz. 5¢."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** October 17, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed.

**10098. Adulteration of candy. U. S. v. 35 Cartons of Candy (and 7 other seizure actions against candy). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17177 to 17179, incl., 17182 to 17186, incl. Sample Nos. 18780-H to 18782-H, incl., 19405-H, 19406-H, 19408-H, 19409-H, 19411-H, 19412-H, 21653-H, 22716-H to 22718-H, incl.)

**LIBELS FILED:** Between August 22 and 27, 1945, District of Minnesota and Eastern and Western Districts of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of July 21 and August 2, 1945, by the Hollywood Candy Co., from Centralia, Ill.

**PRODUCT:** 340 cartons each containing 24 candy bars at Minneapolis, Minn.; 204 cartons each containing 24 candy bars at St. Louis, Mo.; and 88 boxes each containing 150 candy bars at Kansas City, Mo.

**LABEL, IN PART:** "Hollywood's Butter-Nut Milk Chocolate," "Hollywood's Magic 5¢ Candy Bar," "Pay Day Candy Bar," or "Hollywood Milk Chocolate."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, larvae fragments, insect fragments, rodent hairs, and rodent hair fragments.

**DISPOSITION:** Between September 19 and October 17, 1945. No claimant having appeared, judgments were entered ordering that the St. Louis lot be condemned and destroyed; that the Kansas City lot be destroyed; and that the Minneapolis lots be destroyed unless properly reprocessed for animal feed, under the supervision of the Food and Drug Administration.

**10099. Adulteration of candy. U. S. v. 63 Rolls of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 17297. Sample No. 2918-H.)

**LIBEL FILED:** August 22, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about April 26, 1945, by Joe Franklin Myers Industries, from Dallas, Tex.

**PRODUCT:** 63 9-ounce rolls of pecan candy at Baltimore, Md.

**LABEL, IN PART:** "Log Cabin Roll."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect excreta, and webbing.

**DISPOSITION:** September 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10100. Adulteration of candy. U. S. v. 536 Cases of Peanut Brittle. Consent decree of condemnation and destruction.** (F. D. C. No. 17428. Sample No. 36381-H.)

**LIBEL FILED:** September 12, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about May 29, 1945, by A. G. E. Abendroth, from New York, N. Y.

**PRODUCT:** 512 cases, each containing 8 40-pound boxes, and 24 cases, each containing 10 20-pound boxes, of peanut brittle at Portland, Oreg.

**LABEL, IN PART:** "Manee Product of Cuba \* \* \* Peanut Brittle."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and pupae.

**DISPOSITION:** On October 17, 1945, the sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**10101. Misbranding of Spanish nut toffee. U. S. v. 12 Cases of Spanish Nut Toffee. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 17334. Sample No. 32217-H.)**

**LIBEL FILED:** August 31, 1945, District of Arizona.

**ALLEGED SHIPMENT:** On or about July 13, 1945, by the California Fruit Chimes Co., from San Gabriel, Calif.

**PRODUCT:** 12 cases, each containing 60 5-ounce boxes, of Spanish nut toffee at Phoenix, Ariz. Examination showed that the boxes contained irregular pieces of peanut-brittle type candy, and that there was an excessive amount of unfilled space in the boxes.

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container was so made, formed, and filled as to be misleading, since the box was too large for the amount of candy contained therein.

**DISPOSITION:** November 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

#### CHOCOLATE

**10102. Adulteration of chocolate. U. S. v. 9 Bales of Chocolate. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17459. Sample No. 13761-H.)**

**LIBEL FILED:** September 19, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 24, 1945, by the Klein Chocolate Co., Inc., from Elizabethtown, Pa.

**PRODUCT:** 9 bales, each containing 18 10-pound slabs, of chocolate coating at Cleveland, Ohio.

**LABEL, IN PART:** "Kleins Liquor Chocolate Coating."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

**DISPOSITION:** September 24, 1945. The Mackenzie Candy Co., Cleveland, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned in order to eliminate all filth, under the supervision of the Food and Drug Administration. It was further provided that if it was not possible to clean the product properly that it be disposed of for purposes other than human consumption or destroyed.

**10103. Adulteration of chocolate. U. S. v. 6 Bags of Chocolate. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17752. Sample No. 14412-H.)**

**LIBEL FILED:** October 9, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 28, 1944, by the Brewster Ideal Chocolate Co., from Newark, N. J.

**PRODUCT:** 6 200-pound bags of chocolate at Mansfield, Ohio.

**LABEL, IN PART:** "Regal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, insect fragments, and larvae.



**DISPOSITION:** November 2, 1945. The Shelley Candy Co., Mansfield, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned under the supervision of the Food and Drug Administration in order to eliminate all filth, and that if such cleaning were unsuccessful that it be disposed of for purposes other than human consumption.

**10104. Adulteration of chocolate coating. U. S. v. 3 Bags and 78 Cartons of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17753. Sample Nos. 14413-H, 14414-H.)

**LIBEL FILED:** October 9, 1945, Northern District of Ohio.

**ALLEGED SHIPMENT:** Between the approximate dates of January 3 and March 29, 1945, by the Hershey Chocolate Corporation, from Hershey, Pa.

**PRODUCT:** 3 200-pound bags and 78 50-pound cartons of chocolate coating at Mansfield, Ohio.

**LABEL, IN PART:** "Hershey's Dauphin Sweet Chocolate Coating."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, insect fragments, beetles, and larvae.

**DISPOSITION:** November 2, 1945. The Shelley Candy Co., Mansfield, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned under the supervision of the Food and Drug Administration in order to eliminate all filth, and that if such cleaning were unsuccessful that it be disposed of for purposes other than human consumption.

#### SUGAR

**10105. Adulteration of sugar. U. S. v. 910 Bags and 348 Bags of Sugar. Consent decrees of condemnation. Product released under bond.** (F. D. C. Nos. 16766, 16868. Sample Nos. 22976-H, 23015-H.)

**LIBELS FILED:** June 30 and July 19, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about March 5, May 18, and June 7, 1945, from Pekin, Ill., and Gramercy, La.

**PRODUCT:** 1,258 100-pound bags of sugar at Memphis, Tenn., in the possession of the P & B Transfer and Storage Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product had been contaminated with urine and that it contained rodent excreta and rodent excreta pellets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been stored under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 5 and July 21, 1945. The Colonial Baking Co. and T. C. Collas & Co., Memphis, Tenn., claimants, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for segregation and conversion of the unfit portions for use other than human consumption, under the supervision of the Federal Security Agency.

**10106. Adulteration of sugar. U. S. v. 900 Bags of Sugar. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17221. Sample No. 469-H.)

**LIBEL FILED:** August 28, 1945, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about December 26, 1945, from New Orleans, La.

**PRODUCT:** 900 100-pound bags of sugar at Columbus, Ga., in the possession of Dexter and Willingham Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination of the sugar showed contamination by rodent urine.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been stored under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 6, 1945. Dixie Confections, Inc., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

## DAIRY PRODUCTS\*

### BUTTER

The following cases report actions involving butter that was adulterated in that it consisted in whole or in part of a filthy or decomposed substance, or both, Nos. 10107 to 10113; that was below the standard for milk fat content, Nos. 10113 to 10115; and that was short of the declared weight, No. 10116.

**10107. Action to restrain the interstate shipment of adulterated butter. U. S. v. Steve Owens (The Wellington Creamery Co.) and The T. & O. Sales Co. Injunction granted. (Inj. No. 104.)**

**COMPLAINT FILED:** August 18, 1945, Northern District of Texas, against Steve Owens, doing business as the Wellington Creamery Co., at Wellington, Tex., and the T. & O. Sales Co., a partnership, Amarillo, Tex., of which Steve Owens was a member. The complaint alleged that the defendants had been shipping in interstate commerce since August 19, 1944, butter which was contaminated with flies, beetles, rodent filth, dust, and dirt. It was alleged also that an inspection of the Wellington Creamery Co. on August 19, 1944, disclosed that a live rat was nesting under a stack of butter cartons; that a number of dead flies were on the folds at the top of two partly used sacks of sugar; that numerous dead flies and rat tracks were visible in dried cream which had been spilled on the floor of the testing room; that the butter-making equipment and piping were extremely dirty; that cockroaches were at various points throughout the plant; and that the cream used in preparation of the butter contained manure and other ingredients.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), the article had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**PRAYER OF COMPLAINT:** That a preliminary injunction issue restraining the defendants from the commission of the acts complained of, and that, after hearing, the preliminary injunction be made permanent.

**DISPOSITION:** On August 28, 1945, after hearing the evidence and arguments of the parties, the court granted a preliminary injunction enjoining the defendants during the pendency of the action from shipping adulterated butter in interstate commerce. On October 16, 1945, on default of the defendant, the preliminary injunction was made permanent.

**10108. Adulteration of butter. U. S. v. 34 Cubes (2,040 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17388. Sample No. 26163-H.)**

**LIBEL FILED:** August 25, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about August 4, 1945, by the Hallren Poultry and Creamery Co., from Fairview, Okla.

**PRODUCT:** 34 60-pound cubes of butter at Los Angeles, Calif. Analysis showed the product to be contaminated with filth in the form of insect fragments, rodent hairs, human hairs, and feather barbules. Inspection of the manufacturing plant revealed that filthy cream was used in making the butter, and that the butter was prepared under insanitary conditions.

**LABEL, IN PART:** "Creamery Butter \* \* \* Hallren Poultry and Creamery Co. Fairview, Okla."

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\*See also No. 10191.



NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 7, 1945. The Hallren Poultry and Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of for purposes other than for human consumption, under the supervision of the Food and Drug Administration.

**10109. Adulteration of butter. U. S. v. 13 Boxes (910 pounds) of Butter. Default decree of condemnation and destruction.** (F. D. C. No. 17374. Sample Nos. 26156-H, 30702-H.)

LIBEL FILED: August 4, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about July 17, 1945, by the Railways Ice Co., from Clovis, N. Mex.

PRODUCT: 13 70-pound boxes of butter at San Francisco, Calif. This product contained insect fragments, rodent hair fragments, rodent-like hairs, and feather barbules.

LABEL, IN PART: "Cream-O-Plains Butter Made by Hereford Creamery Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10110. Adulteration of butter. U. S. v. 3 Cubes (210 pounds) of Butter. Default decree of condemnation. Product ordered sold.** (F. D. C. No. 17387. Sample No. 26167-H.)

LIBEL FILED: August 25, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about August 7, 1945, by the Shattuck Creamery, from Shattuck, Okla.

PRODUCT: Three cubes, each containing approximately 70 pounds, of butter at Los Angeles, Calif. Analysis showed the product to be contaminated with filth in the form of insects, insect fragments, and feather barbules. Factory inspection revealed that dirty cream was used in the manufacture of the product, and that the premises were insanitary.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed animal substance; and, Section 402 (a) (4), it was prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for use in the manufacture of soap.

**10111. Adulteration of butter. U. S. v. 25 Cases of Butter. Default decree of condemnation. Product ordered delivered to the War Production Board for salvage purposes.** (F. D. C. Nos. 17355, 17369. Sample Nos. 32210-H, 32211-H.)

LIBEL FILED: July 19, 1945, District of Arizona.

ALLEGED SHIPMENT: On or about July 3, 1945, by Swisher Creamery, Inc., from Tulia, Tex.

PRODUCT: 25 cases, each containing 32 1-pound prints, of butter at Tucson, Ariz. Analysis showed that the product contained rodent hairs and insect parts.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the War Production Board to be salvaged as nonedible waste fat.

**10112. Adulteration of butter, U. S. v. 443 32-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17378. Sample No. 4265-H.)

**LIBEL FILED:** August 13, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 7, 1945, by the Davis Cleaver Produce Co., from Quincy, Ill.

**PRODUCT:** 443 cartons, each containing 32 1-pound prints, of butter at Philadelphia, Pa. This product contained mold.

**LABEL, IN PART:** (Prints) "Netherland Brand Butter \* \* \* Churned by Davis Cleaver Produce Co. Quincy, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy or decomposed animal substance.

**DISPOSITION:** August 29, 1945. William H. Oldach, Philadelphia, Pa., claimant, having admitted the allegations contained in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be converted into refined butter oil, under the supervision of the Food and Drug Administration.

**10113. Adulteration of butter. U. S. v. 214 Tubs and 50 Tubs of Butter. Consent decree ordering portion of product released; remainder ordered condemned and released under bond.** (F. D. C. Nos. 17373, 18309. Sample Nos. 5771-H, 7432-H.)

**LIBELS FILED:** July 26, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 15 and 18, 1945, by the Clover Creamery Co., from Radford and Roanoke, Va.

**PRODUCT:** 214 tubs and 50 tubs, each containing approximately 63 pounds, of butter at New York, N. Y. Examination showed that the product contained mold.

**LABEL, IN PART:** "Butter Distributed by J. R. Kramer, Inc. \* \* \* New York, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, putrid, or decomposed substance; and, Section 402 (b) (2), (portion) a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 26, 1945. The libel proceedings having been consolidated, and the Clover Creamery Co., claimant, having admitted the allegations of the libel, judgment was entered ordering that 98 tubs of butter be released to the claimant, and that the remainder be condemned. The condemned goods were ordered released under bond, conditioned that 14 tubs which were low in fat might be reworked to the proper fat content, but that any part that was unfit for human consumption be denatured and disposed of as nonedible grease; that 25 tubs might be converted into butter oil; and that the remainder of 127 tubs be converted into fat for soap making. It was further ordered that the Federal Security Agency supervise the disposition of the condemned goods.

**10114. Adulteration of butter. U. S. v. 97 Boxes (6,208 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17371. Sample No. 5775-H.)

**LIBEL FILED:** August 8, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 14, 1945, by the Hygrade Food Products Corporation, Clarksville, Iowa.

**PRODUCT:** 97 boxes, each containing 64 pounds, of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** August 23, 1945. The Zenith-Godley Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

**10115. Adulteration of butter. U. S. v. 23 70-Pound Cartons of Butter. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17370. Sample No. 5778-H.)

**LIBEL FILED:** August 9, 1945, Southern District of New York.



ALLEGED SHIPMENT: On or about August 2, 1945, by the Center Milk Products Co., from Middlebury Center, Pa.

PRODUCT: 23 70-pound cartons of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 24, 1945. Carl Ahlers, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

**10116. Misbranding of butter. U. S. v. 195 32-Pound Cartons of Butter. Consent decree of condemnation and destruction. (F. D. C. No. 17367. Sample No. 7442-H.)**

LIBEL FILED: August 3, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about July 23, 1945, by Sorensen Creameries, Big Stone City, S. Dak.

PRODUCT: 195 cartons, each containing 32 1-pound prints, of butter at New York, N. Y. The prints contained less than the declared weight.

LABEL, IN PART: (Prints) "Packed for Vineland Butter & Egg Corp. \* \* \* New York, N. Y. Butter 1 Lb. Net."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: August 22, 1945. The Vineland Butter & Egg Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reprinting to the full weight.

**CHEESE**

**10117. Adulteration of Cheddar cheese. U. S. v. 261 Hoops of Cheese. Default decree of condemnation. Product ordered disposed of as nonfood salvage. (F. D. C. No. 17303. Sample No. 7141-H.)**

LIBEL FILED: August 23, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about July 20, 1945, by the Federal Cold Storage Co., from St. Louis, Mo.

PRODUCT: 261 80-pound hoops of Cheddar cheese at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and manure fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered utilized for nonfood purposes in the national defense program.

**10118. Adulteration of Cheddar cheese. U. S. v. 156 Boxes of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17451. Sample No. 23467-H.)**

LIBEL FILED: September 17, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 24, 1945, by Saint Rose Dairy, from Saint Rose, Ill.

PRODUCT: 156 70-pound boxes of Cheddar cheese at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and manure fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 29, 1945. Francis G. Schuette, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

**10119. Adulteration of Cheddar cheese. U. S. v. 40 Boxes of Cheddar Cheese. Default decree of condemnation and destruction.** (F. D. C. No. 17431. Sample No. 19078-H.)

**LIBEL FILED:** September 10, 1945, District of North Dakota.

**ALLEGED SHIPMENT:** On or about August 24, 1945, by Almora Cooperative Cheese Factory, from Almora, Minn.

**PRODUCT:** 40 70-pound boxes of Cheddar cheese at Grand Forks, N. Dak. The product contained rodent hairs and housefly, insect, and manure fragments.

**LABEL, IN PART:** "Cheddar Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10120. Adulteration of Cheddar cheese. U. S. v. 11 Boxes of Cheddar Cheese. Default decree of condemnation and destruction.** (F. D. C. No. 17283. Sample No. 14793-H.)

**LIBEL FILED:** September 6, 1945, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about July 25, 1945, by Land-O-Lakes, Inc., from Pine Island, Minn.

**PRODUCT:** 11 75-pound boxes of Cheddar cheese at Green Bay, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, insect fragments, and manure fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10121. Adulteration of cream cheese with walnuts. U. S. v. 3,050 Pounds of Cream Cheese with Walnuts. Default decree of condemnation. Product ordered disposed of as nonfood salvage.** (F. D. C. No. 17637. Sample No. 5789-H.)

**LIBEL FILED:** October 8, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 21, 1945, by Meyer Zausner, from New Holland, Pa.

**PRODUCT:** 3,050 pounds of cream cheese with walnut meats at New York, N. Y.

**LABEL, IN PART:** "Made for Chock-Full-O-Nuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of larvae, insect parts, and insect-infested and moldy walnuts.

**DISPOSITION:** November 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered utilized for nonfood purposes in the national defense program.

**10122. Adulteration of Ricotta cheese. U. S. v. 4 Crates and 2 Cases of Ricotta Cheese. Default decrees of condemnation. Portion of product ordered delivered to a Federal institution, for use as livestock feed; remainder ordered destroyed.** (F. D. C. Nos. 17305, 17556. Sample Nos. 5779-H, 11977-H.)

**LIBELS FILED:** On August 24 and September 17, 1945, Southern District of New York and District of Massachusetts.

**ALLEGED SHIPMENT:** On or about May 12 and August 1, 1945, by C. Economou, from Burlington and Hinesburg, Vt.

**PRODUCT:** 4 crates each containing 18 Ricotta cheeses at Boston, Mass., and 2 cases, each containing 75 pounds, of Ricotta cheese at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (Massachusetts lot) the article consisted in whole or in part of a decomposed substance and (New York lot) a filthy substance by reason of the presence of maggots and insect



parts; and, Section 402 (a) (4), (New York lot) it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 17 and November 5, 1945. No claimant having appeared, judgments of condemnation were entered and the New York lot was ordered delivered to a Federal institution for use as livestock feed, and the Boston lot was ordered destroyed.

**10123. Adulteration of cheese paste. U. S. v. 2 Cases and 2 Barrels of Cheese Paste. Default decrees of condemnation and destruction. (F. D. C. Nos. 17307, 17352. Sample Nos. 11192-H, 12301-H.)**

**LIBELS FILED:** August 25 and September 10, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 1 and 22, 1945, by the Lakeside Creamery, from Craftsbury and Craftsbury Common, Vt.

**PRODUCT:** 2 125-pound cases, and 2 barrels, each containing 163 pounds and 166 pounds, respectively, of cheese paste at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent and other mammalian hairs, insects, insect fragments, and a fly; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 5, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**MISCELLANEOUS DAIRY PRODUCTS**

**10124. Adulteration and misbranding of condensed buttermilk. U. S. v. 70 Barrels of Condensed Buttermilk. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16637. Sample No. 3471-H.)**

**LIBEL FILED:** June 22, 1945, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about March 24, 1945, by the Nashville Buttermilk Co., Inc., from Fayetteville, Tenn.

**PRODUCT:** 70 478-pound barrels of condensed buttermilk at Norfolk, Va. Examination showed that the product contained not more than 23.14 percent total solids, 4.06 percent protein, 0.29 percent fat, and 1.98 percent starch.

**LABEL, IN PART:** "Manufactured For G. Gray Simpson, Norfolk, Va. Big S Brand Condensed Buttermilk."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (4), starch had been added to the article and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the label statements, "Condensed Buttermilk Minimum Analysis Protein 10% Fat 2% \* \* \* 1% Starch Added," were false and misleading as applied to the article which contained 1.98 percent added starch and less than the declared amounts of protein, fat, and total solids; and, Section 403 (b), the article was offered for sale under the name of another food.

**DISPOSITION:** July 24, 1945. G. Gray Simpson, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**10125. Adulteration and misbranding of condensed buttermilk. U. S. v. 60 Barrels of Condensed Buttermilk. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16281. Sample No. 4609-H.)**

**LIBEL FILED:** May 21, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 24, 1945, by Herbert K. Clofine, from Nashville, Tenn.

**PRODUCT:** 60 barrels, each containing 530 pounds, of condensed buttermilk at Flemington, N. J.

**LABEL, IN PART:** "Condensed Buttermilk for Animal and Poultry Feed \* \* \*. Made by condensing Liquid Creamery Buttermilk Guaranteed Analysis Protein 10%."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (4), starch had been added to the product so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the label statements, "Condensed Buttermilk \* \* \* Made by condensing liquid creamery buttermilk \* \* \* Protein 10%," were false and misleading as applied to a mixture of condensed buttermilk and starch containing less than 10 percent protein; and, Section 403 (b), it was offered for sale under the name of another food.

**DISPOSITION:** June 30, 1945. Nashville Buttermilk Co., Nashville, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be either relabeled and reprocessed or relabeled without reprocessing, under the supervision of the Food and Drug Administration.

**10126. Adulteration and misbranding of oleomargarine. U. S. v. 109 Cartons of Oleomargarine. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17332. Sample No. 32381-H.)**

**LIBEL FILED:** September 7, 1945, District of Arizona.

**ALLEGED SHIPMENT:** On or about August 3, 1945, by Armour and Co., from Los Angeles, Calif.

**PRODUCT:** 109 cartons, each containing 30 1-pound packages, of oleomargarine at Phoenix, Ariz.

**LABEL, IN PART:** "Mayflower Vegetable Oleomargarine."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an article containing less than 80 percent of fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the article failed to conform to the standard for oleomargarine since it contained less than the minimum of 80 percent fat required by the regulations.

**DISPOSITION:** September 28, 1945. Armour and Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

## EGGS

**10127. Adulteration of shell eggs. U. S. v. 548 Cases of Shell Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17572. Sample No. 7299-H.)**

**LIBEL FILED:** September 18, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about June 22, 1945, by the Oskaloosa Produce Co., from Oskaloosa, Iowa.

**PRODUCT:** 548 cases, each containing 30 dozen shell eggs at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 22, 1945. John Minder and Sons, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and denaturing of the unfit portion, under the supervision of the Food and Drug Administration.

**10128. Adulteration of shell eggs. U. S. v. 186 Cases of Shell Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17313. Sample No. 7298-H.)**

**LIBEL FILED:** August 27, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 24, 1945, by E. A. Narum, from Gary, Minn.

**PRODUCT:** 186 cases each containing 30 dozen shell eggs at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 12, 1945. The Egg Producers Marketing Corp., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction or denaturing of the unfit portion, under the supervision of the Food and Drug Administration.



**10129. Adulteration of frozen whole eggs. U. S. v. 913 Cans and 550 Cans of Frozen Whole Eggs. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17580, 17585. Sample Nos. 7865-H, 7866-H.)

**LIBELS FILED:** September 21 and 24, 1945, District of New Jersey and Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 8 and 22, 1945, by the Tyson Produce Co., from Sioux City, Iowa.

**PRODUCT:** Frozen whole eggs. 913 30-pound cans at Jersey City, N. J., and 550 30-pound cans at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 26 and November 13, 1945. M. Roth and Co., Inc., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond, conditioned that the unfit portion be segregated under the supervision of the Food and Drug Administration, and that this portion be denatured or destroyed.

**10130. Adulteration of frozen whole eggs. U. S. v. 500 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17323. Sample No. 11572-H.)

**LIBEL FILED:** August 28, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 12, 1945, by the Selby Poultry and Egg Co., from Burlington, Iowa.

**PRODUCT:** 500 cans, each containing 30 pounds, of frozen whole eggs at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 28, 1945. The Selby Poultry and Egg Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

## FEEDS AND GRAINS

**10131. Misbranding of cottonseed meal. U. S. v. Armour & Co. (The Pine Bluff Cotton Oil Mill). Plea of nolo contendere. Fine, \$50.** (F. D. C. No. 16590. Sample No. 33141-H.)

**INFORMATION FILED:** October 29, 1945, Eastern District of Arkansas, against Armour & Co., a corporation, trading as the Pine Bluff Cotton Oil Mill, Pine Bluff, Ark.

**ALLEGED SHIPMENT:** On or about November 2, 1944, from the State of Arkansas into the State of Kansas.

**LABEL, IN PART:** (Tags) "‘Navy’ Brand Prime Quality 41.00% Protein Cottonseed Cake and Meal Manufactured For and Guaranteed by Louis Tobian & Company, Dallas, Texas."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statements, "41.00% Protein Cottonseed Cake and Meal" and "Guaranteed Analysis: Crude Protein, Not less than 41.00%," borne on the tags, were false and misleading since the article contained less than 41 percent of crude protein.

**DISPOSITION:** November 19, 1945. A plea of nolo contendere was entered on behalf of the defendant, and the court imposed a fine of \$50.

**10132. Adulteration of dog food. U. S. v. 9 Cartons and 100 Cases of Dog Food. Default decrees of condemnation and destruction.** (F. D. C. Nos. 17117, 17118. Sample Nos. 7470-H, 7472-H.)

**LIBELS FILED:** August 14 and 17, 1945, Eastern and Southern Districts of New York.

**ALLEGED SHIPMENT:** On or about June 15 and July 5 and 7, 1945, by the Packer Products Co., from Philadelphia, Pa.

**PRODUCT:** 9 cartons and 100 cases of dog food at Yonkers and Jamaica, N. Y., respectively. Each carton and case contained 12 30½-ounce jars.

**LABEL, IN PART:** "Bark-O Dog Food."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 5 and 18, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10133. Misbranding of stock feed. U. S. v. 105 Bags of Stock Feed. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17030. Sample No. 21883-H.)**

**LIBEL FILED:** August 14, 1945, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about June 24, 1945, by Giessing Flour Mills, from Farmington, Mo.

**PRODUCT:** 105 100-pound bags of stock feed at Memphis, Tenn.

**LABEL, IN PART:** "Soft Wheat Grey Shorts and Screenings Crude Protein, not less than 16%."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement, "Crude Protein, not less than 16%," was false and misleading since the product contained less than the declared amount of protein.

**DISPOSITION:** October 15, 1945. Giessing Flour Mills, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**10134. Misbranding of Stock-Gro. U. S. v. 2 Barrels and 22 Cans of Stock-Gro, and 26 circulars. Default decree of forfeiture and destruction. (F. D. C. No. 17336. Sample No. 13468-H.)**

**LIBEL FILED:** September 7, 1945, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about August 1, 1945, by Stock-Gro, Inc., from Wapakoneta, Ohio.

**PRODUCT:** 2 500-pound barrels and 22 50-pound cans of Stock-Gro at Batesville, Ind., together with 20 circulars entitled, "Stock-Gro promotes Health! Liveability! Reproduction! in Hogs," and 6 circulars entitled, "What's in a Barrel of Stock-Gro?" Examination showed that the product was an artificially colored condensed byproduct of milk.

**LABEL, IN PART:** "Stock-Gro \* \* \* Ingredients: Condensed Whey."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements on the label of the article and in the circulars were false and misleading since they represented and suggested that the article was a digestant and would be effective to insure growth, health, and productivity in poultry and hogs; that it would be effective to prevent and correct necrotic enteritis, dysentery, typhoid, and other diseases due to pathogenic organisms in hogs; that it would aid effectively in the prevention and control of diseases in livestock and poultry; and that it would be effective to prevent and correct worm infestation, coccidiosis, blackhead, and other unhealthy conditions in poultry. The article was not a digestant, and it would not be effective for the purposes represented.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1890.

**DISPOSITION:** October 15, 1945. No claimant having appeared, judgment of forfeiture was entered and the product and circulars were ordered destroyed.

## FISH

**10135. Adulteration of canned codfish flakes. U. S. v. 343 Cases of Canned Cod Fish Flakes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17630. Sample No. 3132-H.)**

**LIBEL FILED:** October 2, 1945, District of Columbia.

**ALLEGED SHIPMENT:** On or about August 6, 1945, by the Edsil Trading Corporation, from New York, N. Y.

**PRODUCT:** 343 cases, each containing 48 14-ounce cans, of codfish flakes at Washington, D. C.

**LABEL, IN PART:** "Maine Shore Cod Fish Flakes \* \* \* Packed by Green Island Packing Co. Rockland, Maine."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 26, 1945. The Green Island Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the normal portion be segregated from the unfit, and that the unfit be destroyed under the supervision of the Food and Drug Administration.

**10136. Adulteration of canned smoked shad. U. S. v. 12 Cases of Canned Smoked Shad (and 3 other seizure actions against canned smoked shad). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17212, 17453, 17455, 17456. Sample Nos. 29291-H, 29897-H, 29913-H, 29915-H.)

**LIBELS FILED:** August 27 and September 14, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about July 23, 1945, by the Kay Sales Co., from Portland, Oreg.

**PRODUCT:** 46 cases at San Francisco, Calif., and 50 cases at Oakland, Calif., each case containing 96 3¼-ounce cans of smoked shad.

**LABEL, IN PART:** "Washington Brand Fancy Smoked Shad \* \* \* Packed by Yaquina Bay Fish Company Newport, Oregon."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 24, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10137. Adulteration of frozen hake fillets. U. S. v. 2,046 Boxes of Frozen Hake Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 17475. Sample Nos. 16109-H to 16111-H, incl.)

**LIBEL FILED:** October 3, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 24, 1945, by Booth Fisheries, from Boston, Mass.

**PRODUCT:** 1,942 10-pound boxes and 104 15-pound boxes of frozen hake fillets at Chicago, Ill.

**LABEL, IN PART:** (Portion) "Whaling City Fisheries New Bedford Mass. Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance.

**DISPOSITION:** December 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10138. Adulteration of frozen rosefish fillets. U. S. v. 1,670 Boxes of Rosefish Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 17479. Sample No. 16112-H.)

**LIBEL FILED:** October 3, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 15, 1945, by the Burnham Morrill Sea food Corporation, from Bangor, Maine.

**PRODUCT:** 1,670 15-pound boxes of rosefish fillets at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10139. Adulteration of frozen rosefish fillets. U. S. v. 292 Cartons of Frozen Rosefish Fillets. Default decree of condemnation and destruction.** (F. D. C. No. 17281. Sample No. 10347-H.)

**LIBEL FILED:** September 4, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 17, 1945, by the Live Fish Co., from Gloucester, Mass.

**PRODUCT:** 292 10-pound cartons of frozen rosefish fillets at Pittsburgh, Pa.

**LABEL, IN PART:** "Pride of Gloucester Frosted Rosefish Fillets Packed by Independent Fish Company, Gloucester, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasites.

**DISPOSITION:** October 5, 1945.\* No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10140. Adulteration of frozen rosefish fillets. U. S. v. 191 Cartons of Frozen Rosefish Fillets. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17472. Sample Nos. 10557-H, 10559-H.)

**LIBEL FILED:** September 18, 1945, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 1, 1945, by the Progressive Fillet Co., from Gloucester, Mass.

**PRODUCT:** 191 10-pound cartons of frozen rosefish fillets at Pittsburgh, Pa.

**LABEL, IN PART:** "Progressive Brand Quickly Frozen Rosefish Fillet."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasites.

**DISPOSITION:** November 16, 1945. The Progressive Fish Company, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**10141. Adulteration of frozen whiting fillets. U. S. v. 400 Boxes of H & G Whiting. Default decree of forfeiture and destruction.** (F. D. C. No. 17043. Sample No. 13979-H.)

**LIBEL FILED:** August 17, 1945, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about July 12, 1945, by the Gorton Pew Fisheries Co., Ltd., from Gloucester, Mass.

**PRODUCT:** 400 15-pound boxes of frozen whiting fillets at Fort Branch, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance.

**DISPOSITION:** October 9, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

**10142. Adulteration of frozen smelts. U. S. v. 375½ Cases of Frozen Dressed Smelts. Default decree of condemnation and destruction.** (F. D. C. No. 17330. Sample No. 4843-H.)

**LIBEL FILED:** August 29, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 25, 1945, by Santa Cruz Processors, Inc., from Santa Cruz, Calif.

**PRODUCT:** 375½ cases, each containing 10 4-pound cartons, of frozen smelts at Philadelphia, Pa.

**LABEL, IN PART:** "Pacific Fresh Quick Frozen Smelt Dressed."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance by reason of the presence of putrid fish.

**DISPOSITION:** October 9, 1945. The sole intervener having withdrawn its claim, judgment of condemnation was entered and the product was ordered destroyed.

## FRUITS AND VEGETABLES\*

### DRIED FRUIT

**10143. Misbranding of dried apples. U. S. v. 92 Boxes of Dried Apples. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17393. Sample Nos. 11658-H, 11660-H.)

**LIBEL FILED:** September 13, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 14, 1945, by the W. A. Camp Co., Inc., from New York, N. Y.

**PRODUCT:** 92 50-pound boxes of dried apples at West Lynn, Mass. Examination showed that the article was unpeeled, uncored, irregular pieces of apples commonly known as dried apple chops.

**LABEL, IN PART:** "Choice Sliced Northwest Dried Apples Jack Gomperts Company, Dist. San Francisco, California."

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\*See also Nos. 10003-10006.



**NATURE OF CHARGE:** Misbranding, Section 402 (a), the label statement "Choice Sliced \* \* \* Dried Apples" was false and misleading since the article was dried apple chops.

**DISPOSITION:** October 11, 1945. The Jack Gomperts Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**10144. Misbranding of E-Z Sauce (dehydrated apples). U. S. v. 50 Cartons of E-Z Sauce. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 17222. Sample No. 36260-H.)

**LIBEL FILED:** September 7, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about July 20, 1945, by the Aldama Products Co., from Los Angeles, Calif.

**PRODUCT:** 50 cartons, each containing 24 3½-ounce bags, of dehydrated apples at Portland, Oreg.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "E-Z Sauce Makes Delicious Apple Sauce" and "Makes E-Z Apple Sauce," were misleading since the article consisted only of dehydrated apples; and, Section 403 (f), the common or usual name of the article "Dehydrated Apples," the net weight statement, and the statement of added sulfur dioxide, required to appear on the label, were not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since they appeared in print so small as to be practically illegible.

**DISPOSITION:** October 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**10145. Adulteration of raisins. U. S. v. 570 Cartons and 50 Cartons of Raisins. Default decrees of condemnation. Product ordered delivered to a public institution, for use as animal feed.** (F. D. C. Nos. 17309, 17310. Sample Nos. 2922-H, 3517-H.)

**LIBELS FILED:** August 24, 1945, District of Maryland.

**ALLEGED SHIPMENT:** On or about January 22, 1945, by the Vagim Packing Co., from Fresno, Calif.

**PRODUCT:** 620 25-pound cartons of raisins at Baltimore, Md.

**LABEL, IN PART:** "Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, moths, and larvae.

**DISPOSITION:** October 10, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to a public institution, for use as animal feed.

**10146. Adulteration of raisins. U. S. v. 30 Cartons and 38 Boxes of Raisins. Default decrees of condemnation. Portion of product ordered delivered to a public institution; remainder ordered destroyed.** (F. D. C. Nos. 17566, 18119. Sample Nos. 4275-H, 13779-H.)

**LIBELS FILED:** September 14 and November 8, 1945, Eastern District of Pennsylvania and Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 19 and 23, 1944, by the Peloian Packing Co., from Reedley, Calif.

**PRODUCT:** 30 cartons and 38 boxes, each containing 30 pounds, of raisins at Philadelphia, Pa., and Cleveland, Ohio.

**LABEL, IN PART:** "Pel-Pak Brand \* \* \* Thompson Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect-infested raisins.

**DISPOSITION:** October 16, 1945. No claimant having appeared, judgments of condemnation were entered and the Cleveland lot was ordered destroyed, and the Philadelphia lot was ordered denatured, for use as animal feed, and delivered to a public institution.



## FRESH AND FROZEN FRUIT

**10147. Adulteration of blueberries. U. S. v. 14 Crates and 5 Crates of Blueberries. Default decrees of condemnation and destruction.** (F. D. C. Nos. 17357, 17358. Sample Nos. 7467-H, 7469-H.)

**LIBELS FILED:** August 2, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 27, 1945, by Paul Saladigo, from Kelayres, Pa.

**PRODUCT:** 14 crates and 5 crates, each containing 24 quart baskets, of blueberries at New York, N. Y. Examination showed that the product was infested with maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

**DISPOSITION:** August 7, 1945. No claimants having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10148. Adulteration of blueberries. U. S. v. 10 Crates of Blueberries. Default decree of condemnation and destruction.** (F. D. C. No. 17381. Sample No. 11199-H.)

**LIBEL FILED:** August 18, 1945, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 18, 1945, by Proctor Bros., from Alton, N. H.

**PRODUCT:** 10 crates, each containing 24 1-quart boxes, of blueberries at Boston, Mass. Examination showed that the product was infested with maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** September 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10149. Adulteration of blueberries. U. S. v. 9 Boxes of Blueberries. Default decree of condemnation and destruction.** (F. D. C. No. 17359. Sample No. 7465-H.)

**LIBEL FILED:** August 2, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 31, 1945, by T. Puleo, from Hammonton, N. J.

**PRODUCT:** 9 boxes, each containing 12 pint baskets, of blueberries at New York, N. Y. Examination showed that the product was infested with maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

**DISPOSITION:** August 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10150. Adulteration of blueberries. U. S. v. 5 Crates of Blueberries. Default decree of condemnation and destruction.** (F. D. C. No. 17356. Sample No. 7468-H.)

**LIBEL FILED:** August 2, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 31, 1945, by J. Franchetti, from Hammonton, N. J.

**PRODUCT:** 5 crates, each containing 24 quart baskets, of blueberries at New York, N. Y. Examination showed that the product was infested with maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

**DISPOSITION:** August 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10151. Adulteration of blueberries. U. S. v. 4 Crates of Blueberries. Default decree of condemnation and destruction.** (F. D. C. No. 17360. Sample No. 7466-H.)

**LIBEL FILED:** August 2, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 27, 1945, by H. Scarpatti, from McAdoo, Pa.

**PRODUCT:** 4 crates, each containing 24 quart baskets, of blueberries at New York, N. Y. Examination showed that the product was infested with maggots.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

**DISPOSITION:** August 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10152. Adulteration of blueberries. U. S. v. 3 Crates of Blueberries. Default decree of condemnation and destruction.** (F. D. C. No. 17366. Sample No. 7471-H.)

**LIBEL FILED:** August 4, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 2, 1945, by E. J. Matthews, from Hazleton, Pa.

**PRODUCT:** 3 crates, each containing 24 quart baskets, of blueberries at New York, N. Y. Examination showed that the product was infested with maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

**DISPOSITION:** August 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10153. Adulteration of pitted dates. U. S. v. 91 Boxes of Pitted Dates. Default decree of condemnation and destruction.** (F. D. C. No. 15855. Sample No. 20182-H.)

**LIBEL FILED:** On or about April 23, 1945, District of Kansas.

**ALLEGED SHIPMENT:** On or about February 27, 1945, by T. M. Duche and Sons, Inc., from New York, N. Y.

**PRODUCT:** 91 70-pound boxes of pitted dates at Kansas City, Kans.

**LABEL, IN PART:** "Clean Sound and Fresh Dates Grown in Iraq \* \* \* Sphinx Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and dirt.

**DISPOSITION:** September 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. The product was used as hog feed.

**10154. Adulteration of frozen crushed pineapple. U. S. v. 1,549 Cases of Frozen Crushed Pineapple. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17489. Sample No. 36423-H.)

**LIBEL FILED:** September 24, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about August 16, 1945, by the Keim Produce Co., from Tucson, Ariz.

**PRODUCT:** 1,549 cases, each containing 24 1-pound cups, of frozen crushed pineapple at Seattle, Wash. Examination showed that the product was fermented.

**LABEL, IN PART:** "Miller's Lone Star Frozen Crushed Pineapple \* \* \* Miller Bros. Foods Co., Edinburg, Texas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 26, 1945. The Keim Produce Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

#### MISCELLANEOUS FRUIT PRODUCTS

**10155. Adulteration of raisin paste. U. S. v. 50 Cases of Raisin Paste. Default decree of condemnation and destruction.** (F. D. C. No. 17301. Sample No. 4262-H.)

**LIBEL FILED:** August 22, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 20, 1943, by the William A. Camp Co., Inc., from New York, N. Y.

**PRODUCT:** 50 cases, each containing 40 pounds, of raisin paste at Philadelphia, Pa.

**LABEL, IN PART:** "Skyline Brand Muscat Paste Packed by North Ontario Dried Fruit Co. Los Angeles, California."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect fragments.

**DISPOSITION:** September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10156. Adulteration of black raspberry puree. U. S. v. 1,322 Cans of Black Raspberry Puree. Consent decree of condemnation. Product ordered released under bond. Motion by claimant for order requiring Government to supervise reprocessing, and motion by Government to set aside portion of decree; motions denied.** (F. D. C. No. 18933. Sample No. 14464-H.)

**LIBEL FILED:** February 4, 1946, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 8, 1945, by Arthur C. Marquart & Co., Benton Harbor, Mich.

**PRODUCT:** 1,322 cans of black raspberry puree at Cleveland, Ohio.

**LABEL, IN PART:** "Black Raspberry Puree 30 Pounds Net The Telling Belle Vernon Co. Cleveland, Ohio."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 12, 1946. The Telling-Belle Vernon Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be distilled for use in making cordials or brandies, or that it be reprocessed for the purpose of making jellies, under the supervision of the Food and Drug Administration. On July 15, 1946, a motion was filed by the claimant to require the Food and Drug Administration to supervise the reprocessing of the product into jelly. Thereafter, a motion was filed on behalf of the Government to set aside the portion of the consent decree permitting the reprocessing of the product for use as jelly. On or about November 8, 1946, after consideration of the briefs of the parties, the court handed down the following decision:

JONES, *District Judge*: "This case was disposed of by a consent decree approved by attorneys for the claimant and the United States Attorney representing the Government. The decree provides for the condemnation of the black raspberry puree because it was adulterated and upon bond allows the reconditioning by distillation or reprocessing for making cordials, brandies or jellies but subject to the approval of the Food and Drug Administration of the Federal Security Agency.

"The claimant wants to reprocess the puree by filtration and make jelly of it. The Food and Drug Administration objects to this method and refuses to supervise a reconditioning process of the filtration type because, as it says, such a process would not produce a product which it would approve for human consumption.

"The claimant has filed a motion for an order of the court to require the Food and Drug Administration to supervise such a reprocessing. The plaintiff has moved to set aside that portion of the decree which allows the reprocessing by the pressing or filtration method. Voluminous briefs and affidavits have been filed by both parties.

"There is some doubt as to the authority of the court to alter a consent decree. However, it seems unnecessary to change the decree of the court. Without a trial it is not possible to determine whether the reprocessing method proposed by the claimant complies with the provisions of the Pure Food and Drug law. That was not an issue in this case nor should it be determined on the motion of the claimant supported by affidavits and the briefs filed. That would be the issue in a new case if the claimant were allowed to reprocess the puree as it proposes and if the puree were subsequently condemned by the Food and Drug Administration.

"The purpose of vesting discretion and supervisory powers in the Food and Drug Administration as to reprocessing was to avoid such a succession of suits. After a product has been condemned its reprocess is a permissive matter within the discretion of the court as indicated by the use of the word 'may' in the statute. The statute also provides that the reconditioned puree must be brought into compliance with the provisions of the Pure Food and Drug law under the supervision of the Administration. Where several methods of reprocessing are enumerated, as in this decree, the question of who shall deter-



mine the one to be used and which, when used, will bring the reconditioned puree into compliance with the statute seems to be the only question for decision, i. e., does the claimant who does the reprocessing or the Food and Drug Administration under whose supervision the work is to be done have the right to determine the method which would bring the reprocessed product into compliance with the law?

"The Food and Drug Administration has determined that distillation is the only process which would recondition this puree for human consumption and which it would approve. I see no abuse of discretion in making this determination nor can the court interfere with that determination. To interfere would be substituting the judgment of the court for that of the Food and Drug Administration upon a matter which it is better able to decide and upon an issue which I think is not properly joined in this case.

"The fact that the claimant will suffer financial loss is not of great materiality. Its product was found to be unfit for human consumption and the reconditioning is not a matter of right but of permission by the Court.

"The motion of the claimant will be denied.

"The motion of the Government insofar as it seeks to alter the decree will likewise be denied.

"An entry may be presented in accordance with this ruling."

**10157. Adulteration and misbranding of vinegar. U. S. v. 65 Cases of Vinegar. Default decree of condemnation and destruction. (F. D. C. No. 17293. Sample Nos. 7789-H to 7791-H, incl.)**

**LIBEL FILED:** August 23, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 29, 1945, by the Randall Wine Vinegar Co., from New York, N. Y.

**PRODUCT:** 26 cases, each containing 24 1-pint bottles, 17 cases, each containing 12 1-quart bottles, and 22 cases, each containing 4 1-gallon bottles, of vinegar at Hoboken, N. J.

**LABEL, IN PART:** "Eldeen Brand Pure Wine Vinegar \* \* \* We guarantee this product to be made from pure wine."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for pure wine vinegar, which the article was represented to be; and, Section 402 (b) (4), distilled vinegar or acetic acid had been added to the article and mixed and packed with it so as to reduce its quality or strength.

Misbranding, Section 403 (a), the label statements, "Pure Wine Vinegar \* \* \* We guarantee this product to be made from pure wine," were false and misleading.

**DISPOSITION:** December 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10158. Adulteration of wine vinegar. U. S. v. 50 Cases of Wine Vinegar (and 2 other seizure actions against wine vinegar). Default decrees of condemnation and destruction. (F. D. C. Nos. 17573, 17574, 17888. Sample Nos. 4620-H, 7714-H, 7915-H, 7916-H.)**

**LIBELS FILED:** September 18 and on or about September 19 and October 9, 1945, Districts of New Jersey and Connecticut and Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 20, 21, and 27, by the Randall Wine Vinegar Co., from New York, N. Y.

**PRODUCT:** 11 cases, each containing 24 1-pint bottles, and 34 cases, each containing 12 1-quart bottles, of wine vinegar at Newark, N. J.; and 50 cases, each containing 6 ½-gallon jugs, and 8 cases, each containing 12 1-quart bottles, of wine vinegar at New Haven, Conn., and Hazleton, Pa., respectively.

**LABEL, IN PART:** "Eldeen Brand Packed by Eldeen Spice Co. New York Pure Wine Vinegar."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for pure wine vinegar, which the article was represented to be; and, Section 402 (b) (4), distilled vinegar or acetic acid had been added to the article or mixed and packed with it so as to reduce its quality or strength.



Misbranding, Section 403 (a), the label statements, "Pure Wine Vinegar \* \* \* We guarantee this product to be made from pure wine," were false and misleading as applied to a mixture of wine vinegar and distilled vinegar or acetic acid.

**DISPOSITION:** November 14 and December 17 and 18, 1945. No claimant having appeared for any of the 3 lots, judgments of condemnation were entered and the product was ordered destroyed.

The containers of the New Haven lot were ordered salvaged, by amended decree dated November 16, 1945.

#### VEGETABLES AND VEGETABLE PRODUCTS

**10159. Adulteration of canned beans. U. S. v. 61 Cases of Canned Beans. Default decree of condemnation and destruction.** (F. D. C. No. 17350. Sample No. 7701-H.)

**LIBEL FILED:** On or about September 10, 1945, District of Connecticut.

**ALLEGED SHIPMENT:** On or about January 20, 1945, by the Mason Canning Co., from Pocomoke City, Md.

**PRODUCT:** 61 cases, each containing 6 6-pound, 5-ounce cans, of wax beans at Hartford, Conn. This product was undergoing progressive spoilage.

**LABEL, IN PART:** "Connecticut Valley Brand Round Pod Cut Wax Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10160. Adulteration of canned pork and beans. U. S. v. 22 Cases of Canned Pork and Beans. Default decree of condemnation and destruction.** (F. D. C. No. 17319. Sample No. 4267-H.)

**LIBEL FILED:** August 27, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about June 29, 1945, by the Edgar F. Hurff Co., from Swedesboro, N. J.

**PRODUCT:** 22 cases, each containing 24 20-ounce unlabeled cans, of pork and beans at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10161. Adulteration of canned corn. U. S. v. 49 Cases of Canned Corn (and 2 other seizure actions against canned corn). Default decrees of condemnation and destruction.** (F. D. C. Nos. 16803, 16997, 17154. Sample Nos. 27275-H, 27847-H, 36262-H.)

**LIBELS FILED:** July 18, August 20, and September 11, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about August 20 and 25, 1944, and July 25, 1945, by the Pacific Fruit and Produce Co., from Walla Walla, Centralia, and Aberdeen, Wash.

**PRODUCT:** 49 cases, 20 cases, and 36 cases, each containing 24 1-pound, 4-ounce cans, of corn at La Grande, Baker, and Portland, Oreg., respectively.

**LABEL, IN PART:** "Nation's Garden Brand Cream Style Golden Sweet Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** August 8 and October 4, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10162. Adulteration of green split peas. U. S. v. 185 Bags of Green Split Peas. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17430. Sample No. 12950-H.)

**LIBEL FILED:** September 6, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 9, 1944, from Lewiston, Idaho.

**PRODUCT:** 185 25-pound bags of green split peas at Cincinnati, Ohio, in the possession of Baltimore and Ohio Warehouse. The product was stored under



insanitary conditions after shipment. Some of the bags were rodent-gnawed, and urine stains were observed on them. Examination showed that the product contained rodent pellets, rodent hairs, and larvae.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 20, 1945. Mark Means Co., Lewiston, Idaho, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion that had been contaminated by rodents be segregated and disposed of for purposes other than human food, and that the remainder be cleaned under the supervision of the Food and Drug Administration.

**10163. Misbranding of canned peas. U. S. v. 1,500 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17629. Sample No. 6174-H.)

**LIBEL FILED:** October 4, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about July 31, 1945, by the Deerfield Packing Corporation, from Seabrook, N. J.

**PRODUCT:** 1,500 cases, each containing 24 1-pound, 4-ounce cans, of peas at Brooklyn, N. Y. The product was substandard because of alcohol-insoluble solids in excess of 21 percent. The substandard statement was not in the form specified in the regulations since it did not read "Below Standard in Quality," and it was not so placed as to be easily read but appeared on a side panel.

**LABEL, IN PART:** "Songstress Brand Sweet Peas [Picture of green peas in the pod] \* \* \* Below Standard in Maturity."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the vignette of green peas in the pod appearing on the label was misleading since the peas were not a normal green color but were lighter and had more of a yellow hue; and, Section 403 (h) (1), the product was below standard, and its label failed to bear in the manner and form required by the regulations a statement that it fell below such standard.

**DISPOSITION:** November 1, 1945, the Deerfield Packing Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**10164. Misbranding of canned peas. U. S. v. 800 and 340 Cases of Canned Peas. Consent decrees of condemnation. Product released under bond.** (F. D. C. Nos. 17466, 17467. Sample Nos. 22190-H, 22191-H.)

**LIBELS FILED:** September 13, 1945, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about August 3, 1945, by the Geidel Canneries, Inc., from Adell, Wisconsin.

**PRODUCT:** 1,140 cases, each containing 24 20-ounce cans, of peas at St. Louis, Mo.

**LABEL, IN PART:** "Ransom Size 4 Early June Peas," or "Highland Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was substandard.

**DISPOSITION:** November 1, 1945, The Geidel Canneries, Inc., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**10165. Misbranding of canned peas. U. S. v. 400 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17642. Sample No. 7350-H.)

**LIBEL FILED:** October 10, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about July 16, 1945, by the Lake Shore Canning Co., from Cleveland, Wis.



**PRODUCT:** 400 cases, each containing 24 cans, of peas at Jersey City, N. J. The product was shipped unlabeled, and no written agreement existed between the shipper and consignee as to the labeling.

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product was below standard; Section 403 (e) (1), it was a food in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents. Further misbranding, Section 403 (g) (2), its label failed to bear, as required by the regulations, the name of the food specified in the definition and standard of identity for canned peas.

**DISPOSITION:** November 13, 1945. J. H. Haar & Sons, Jersey City, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**10166. Adulteration of potato chips. U. S. v. 24 Cases of Potato Chips (and 6 other seizure actions against potato chips). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17615 to 17617, incl., 17638, 18184, 18185, 18200. Sample Nos. 4758-H, 4856-H, 4857-H, 4861-H to 4863-H, incl., 5111-H, 7355-H.)

**LIBELS FILED:** Between September 27 and October 24, 1945, District of Delaware and District of New Jersey.

**ALLEGED SHIPMENT:** Between the approximate dates of September 6 and 20, 1945, by the Hygrade Bakery, from Philadelphia, Pa.

**PRODUCT:** Potato Chips. 30 cases at Wilmington, Del.; 88 cases at Trenton, N. J.; 23 cases at Camden, N. J.; 125 cases at Collingswood, N. J.; and 35 8-ounce bags and 75 4-ounce bags at Perth Amboy, N. J. Each case contained 12 8-ounce bags of the product.

**LABEL, IN PART:** "Hygrade Golden Crisp Potato Chips."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (portions) the article was unfit for food by reason of the presence of worm holes; (remainder) it was unfit for food by reason of the presence of worm holes and by reason of having been prepared from potatoes, some of which were green, some of which were decomposed, and some of which were wormy.

**DISPOSITION:** Between October 24 and December 26, 1945. No claimant having appeared, judgments of condemnation were entered and all lots of the product were ordered destroyed.

**10167. Adulteration of potato chips. U. S. v. 99 Dozen Bags and 80 Dozen Bags of Potato Chips. Default decrees of condemnation and destruction.** (F. D. C. Nos. 17291, 17329. Sample Nos. 249-H, 791-H.)

**LIBELS FILED:** August 23 and 29, 1945, Middle District and Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about July 24 and 31, 1945, by the Maxine Sandwich Co., from Greenville and Pelzer, S. C.

**PRODUCT:** 179 dozen  $\frac{3}{4}$ -ounce bags of potato chips at Charlotte and Sanford, N. C.

**LABEL, IN PART:** "Maxine's Little Dinner Potato Chips Grade 'A' Ingredients: Selected potatoes, Vegetable Shortening, Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the 2 shipments of the article contained approximately 32 and 35 percent, respectively, of added mineral oil, a deleterious substance which may have rendered it injurious to health; Section 402 (b) (1), a valuable constituent, vegetable shortening, had been in whole or in part omitted from the article; Section 402 (b) (2), a substance consisting of potato chips with added nonnutritive mineral oil had been substituted in whole or in part for potato chips with vegetable shortening, which the article was represented to be; and, Section 402 (b) (4), mineral oil had been mixed and packed with the article so as to reduce its quality or strength.

**DISPOSITION:** October 6 and 15, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.



**10168. Adulteration of sauerkraut juice. U. S. v. 177 Cases of Sauerkraut Juice. Default decree of condemnation and destruction. (F. D. C. No. 17554. Sample Nos. 32215-H, 32216-H.)**

**LIBEL FILED:** September 19, 1945, District of Arizona.

**ALLEGED SHIPMENT:** On or about November 15 and December 8, 1944, by the Daisy-Fresh Products Co., from Los Angeles, Calif.

**PRODUCT:** 82 cases, each containing 12 1-pint bottles, and 95 cases, each containing 24 1-pint bottles, of sauerkraut juice at Phoenix, Ariz.

**LABEL, IN PART:** "Daisy-Fresh Pure Sauerkraut Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance since it was undergoing active spoilage.

**DISPOSITION:** November 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10169. Adulteration of canned spinach. U. S. v. 477 Cases of Canned Spinach. Default decree of condemnation and destruction. (F. D. C. No. 17444. Sample No. 29798-H.)**

**LIBEL FILED:** On or about October 6, 1945, District of Kansas.

**ALLEGED SHIPMENT:** On or about August 27, 1945, by W. J. Withers, from San Francisco, Calif.

**PRODUCT:** 477 cases, each containing 24 1-pound, 2-ounce cans, of spinach at Pittsburg, Kans.

**LABEL, IN PART:** "Deerwood Brand Fancy California Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of aphids.

**DISPOSITION:** December 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10170. Adulteration and misbranding of canned spinach. U. S. v. 88 Cases of Canned Spinach. Default decree of condemnation and destruction. (F. D. C. No. 17192. Sample No. 27984-H.)**

**LIBEL FILED:** On or about September 12, 1945, District of Oregon.

**ALLEGED SHIPMENT:** On or about June 23, 1945, by the Hunt Brothers Packing Co., from Oakland, Calif.

**PRODUCT:** 88 cases, each containing 14 1-pound, 11-ounce cans, of spinach at Klamath Falls, Oreg. Examination showed that the product contained an excessive amount of blades of grass.

**LABEL, IN PART:** "Hunt's Supreme Quality Fancy California Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), grass had been substituted in whole or in part for spinach, which the article was represented to be. Misbranding, Section 403 (a), the label statement, "Supreme Quality Fancy California Spinach," was false and misleading.

**DISPOSITION:** October 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10171. Adulteration of frozen sweet potato puree. U. S. v. 794 Cartons of Frozen Sweet Potato Puree. Consent decree of condemnation and destruction. (F. D. C. No. 17484. Sample No. 18064-H.)**

**LIBEL FILED:** October 3, 1945, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 7, 1945, by the Capitol Fish Co., from Atlanta, Ga.

**PRODUCT:** 794 25-pound cartons of frozen sweet potato puree at Chicago, Ill. Examination showed that the product was moldy.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 20, 1945. The Capitol Fish Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**10172. Adulteration of canned turnip greens. U. S. v. 163 Cases of Canned Turnip Greens. Default decree of condemnation. Product ordered delivered to a public institution.** (F. D. C. No. 17596. Sample No. 384-H.)

**LIBEL FILED:** September 24, 1945, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about April 12 and 19 and June 26, 1945, by the South Atlantic Canning Co., from Mount Pleasant, S. C.

**PRODUCT:** 163 cases, each containing 6 6-pound, 2-ounce cans, of turnip greens at Jacksonville, Fla.

**LABEL, IN PART:** "I-Dine [or "Cooper River"] Brand Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of flies and larvae.

**DISPOSITION:** December 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as stock feed.

**10173. Misbranding of vegetable cocktail. U. S. v. 188 Cases of Vegetable Cocktail. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17007. Sample No. 36621-H.)

**LIBEL FILED:** August 21, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 17, 1945, by Puritan Food Products, Inc., from Chicago, Ill.

**PRODUCT:** 188 cases, each containing 12 1-quart bottles, of vegetable cocktail at Seattle, Wash. The product was short-volume.

**LABEL, IN PART:** "Market-Wise Satisfies Contents 1 Quart Vegetable Cocktail."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the label of the article failed to contain an accurate statement of the quantity of the contents.

**DISPOSITION:** November 23, 1945. Safeway Stores, Inc., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

## NUTS

**10174. Misbranding of glace almonds. U. S. v. 97 Cases of Glace Almonds. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17425. Sample No. 28889-H.)

**LIBEL FILED:** September 11, 1945, Western District of Washington.

**ALLEGED SHIPMENT:** On or about August 6, 1945, by McGarry Nut Products, Ltd., from Chicago, Ill.

**PRODUCT:** 97 cases, each containing 24 cellophane bags, of glace almonds at Seattle, Wash. Examination showed that the product was short of the declared weight.

**LABEL, IN PART:** "Dan-Dee Glace Almonds Net Wt. 7 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** October 26, 1945. McGarry Nut Products, Ltd., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be repacked and relabeled under the supervision of the Food and Drug Administration.

**10175. Adulteration of filberts. U. S. v. 23 Bags of Filberts. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 17260. Sample No. 30898-H.)

**LIBEL FILED:** August 31, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about January 11, 1945, by the Metropolitan Pool Car Association, from New York, N. Y.

**PRODUCT:** 23 bags, each containing approximately 110 pounds, of shelled Barcelona filberts at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged nuts, larvae, insect excreta, and webbing.



**DISPOSITION:** September 21, 1945. The Harry P. Ritchie Co., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**10176. Adulteration of peanuts. U. S. v. 126 Bags of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17261. Sample Nos. 30896-H, 30897-H.)**

**LIBEL FILED:** August 31, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about February 5, 1945, by the Wells Brokerage and Distributing Co., from Plymouth, N. C.

**PRODUCT:** 87 100-pound bags of "No. 1" peanuts and 39 100-pound bags of "medium" peanuts at Los Angeles, Calif.

**LABEL, IN PART:** "No. 1 [or "Medium"] Virginia Shelled Peanuts Farmers Cotton and Peanut Co., Plymouth, N. C."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged peanuts, insect excreta, and webbing.

**DISPOSITION:** September 21, 1945. The Harry P. Ritchie Co., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**10177. Adulteration and misbranding of salted peanuts. U. S. v. 14 Cases of Salted Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 9417. Sample No. 30554-F.)**

**LIBEL FILED:** March 5, 1943, Western District of Washington.

**ALLEGED SHIPMENT:** On or about February 2, 1943, by Reliable Nut Co., from Los Angeles, Calif.

**PRODUCT:** 14 cases, each containing 12 cartons, of salted peanuts at Seattle, Wash. Each carton contained 24 1-ounce packages.

**LABEL, IN PART:** (Cartons) "Ingredients—Peanuts, Salt, Pure Vegetable Oil Royal Seal Salted Peanuts Spanish Salted Peanuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), salted peanuts containing mineral oil, had been substituted in whole or in part for salted peanuts containing pure vegetable oil, which the product purported and was represented to be. Misbranding, Section 403 (a), the label statements, "Ingredients—Peanuts, Salt, Pure Vegetable Oil" and "Ingredients—Peanuts, Salt, Pure Veg. Oil," were false and misleading.

**DISPOSITION:** June 29, 1943. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10178. Adulteration of shelled walnuts. U. S. v. 160 Cartons of Shelled Walnuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15943. Sample No. 18989-H.)**

**LIBEL FILED:** April 24, 1945, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 3, 1945, by the Davis Nut Shelling Co., from Los Angeles, Calif.

**PRODUCT:** 160 25-pound cartons of shelled walnuts at St. Paul, Minn.

**LABEL, IN PART:** "Davis-Pakt Shelled Walnuts Standard Amber Halves & Pieces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of insect-infested and moldy walnuts.

**DISPOSITION:** July 5, 1945. Griggs Cooper and Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.



**10179. Adulteration of walnut meats. U. S. v. 38 Cases of Walnut Meats. Default decree of destruction.** (F. D. C. Nos. 15902, 15903. Sample Nos. 25517-H, 25518-H.)

**LIBEL FILED:** April 11, 1945, District of Utah.

**ALLEGED SHIPMENT:** February 27 and March 20, 1945, by Los Angeles Nut House, from Los Angeles, Calif.

**PRODUCT:** 38 25-pound cases of walnut meats at Salt Lake City, Utah.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of the presence of worm-damaged and moldy nuts.

**DISPOSITION:** May 12, 1945. No claimant having appeared, judgment was entered ordering the product destroyed by being utilized as animal feed.

### OILS AND FATS

**10180. Adulteration and misbranding of mayonnaise. U. S. v. 97 Jars of Mayonnaise (and 6 other seizure actions against mayonnaise). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17561, 17562, 17593, 17914, 18176 to 18178, incl. Sample Nos. 679-H, 850-H, 1030-H, 1035-H to 1037-H, incl., 2799-H.)

**LIBELS FILED:** September 14 and 20 and October 12, 18, and 31, 1945, Eastern, Western, and Middle Districts of North Carolina, Southern District of Georgia, and Western District of Virginia.

**ALLEGED SHIPMENT:** Between the approximate dates of July 18 and August 4, 1945, by the Walgreen Co., from Columbia, S. C.

**PRODUCT:** Mayonnaise, in gallon jars. 97 jars at Charlotte, N. C., 77 jars at Savannah, Ga., 15 jars at Augusta, Ga., 33 jars at Lynchburg, Va., 80 jars at Raleigh, N. C., 72 jars at Durham, N. C., and 33 jars at Winston-Salem, N. C.

**LABEL, IN PART:** "Warren's Best Mayonnaise Made by Warren Food Co. Columbia, S. C.," or "Warren's Home Made Mayonnaise."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained added mineral oil, a deleterious substance, which may have rendered it injurious to health, in amounts varying from 77 to 86 percent; Section 402 (b) (1), a valuable constituent, an edible oil, had been in whole or in part omitted from the product; and, Section 402 (b) (2), an article containing mineral oil had been substituted in whole or in part for mayonnaise.

Misbranding, Section 403 (a), (all except the Lynchburg lot) the designation "Mayonnaise" was false and misleading as applied to an article containing mineral oil.

**DISPOSITION:** Between the dates of October 12 and December 31, 1945. No claimant having appeared, judgments of condemnation were entered and all lots of the product were ordered destroyed.

**10181. Adulteration and misbranding of edible oil. U. S. v. 90 Cases of Edible Oil (and 9 other seizure actions against edible oil). Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 6117, 10159, 10195, 10308, 10324, 10382, 11189, 11213, 11260, 14598. Sample Nos. 22060-F, 22066-F, 23673-F, 34214-F, 45280-F, 45292-F, 45566-F, 46969-F, 50716-F, 50717-F, 82551-F, 82880-F.)

**LIBELS FILED:** Between the dates of October 29, 1941, and November 27, 1944, District of New Jersey, Northern District of Ohio, and Eastern and Western Districts of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of September 26, 1941, and September 12, 1944, by the Mamma Mia Importing Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** Edible oil. 2,301 cases, each containing 6 1-gallon cans, 5 cases, each containing 24 1-quart cans, 36 1-gallon cans, and 17 1/2-gallon cans, in various lots, at Jersey City and Hackensack, N. J., Pittsburgh and Philadelphia, Pa., and Youngstown, Ohio. The product was represented to consist of 80 percent of cottonseed and peanut oils and 20 percent of imported olive oil. Examination showed that it contained little or no olive oil. One lot consisted solely of cottonseed oil. The remaining lots consisted essentially of a blend of 2 or more of the following: Cottonseed oil, peanut oil, soybean oil, and corn oil, or oil resembling corn oil in varying proportions. Some of the



lots contained little or no peanut oil, and other lots contained little or no cottonseed oil. All lots were artificially colored, and 1 lot was also artificially flavored. Portions of the gallon cans were found to be short-volume.

**LABEL, IN PART:** (Main panels) "Santuzza Brand 80% Cotton Seed and Peanut Oil 20% Imported Olive Oil. Packed By Mamma Mia Importing Co. Inc. Brooklyn, N. Y."; (side panels) "The Santuzza Brand is a delicious blend of Oils We recommend it for Salads Frying Baking Mayonnaise and any other Culinary Purpose." There were similar statements in Italian.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), cottonseed oil, or an artificially colored mixture of soybean and cottonseed oil or soybean and corn oil, or an oil similar to corn oil, with or without the addition of peanut oil, and containing little or no olive oil, had been substituted in whole or in part for 80 percent cottonseed and peanut oil and 20 percent imported olive oil, which the article purported and was represented to be; and (one lot), Section 402 (b) (4), artificial flavoring and coloring had been added to the article or mixed or packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), most of the libels filed contained the charge that the brand name "Santuzza" coupled with the design on the label, statements in Italian on side panels, and the word "Importing" appearing in the name of the firm which packed the oil, were misleading since they created the impression that the article or a substantial portion of it consisted of imported olive oil. The article contained little or no imported olive oil.

Further misbranding (a majority of the cases), Section 403 (a), the statement "One Gallon Net" was false and misleading as applied to an article which was short-volume, and the statement, "80% Cottonseed and Peanut Oil 20% Imported Olive Oil," was false and misleading as applied to an article containing little or no olive oil and, in some instances, little or no peanut oil and, in others, little or no cottonseed oil. All of the libels contained one or more of the following charges of misbranding: Section 403 (e) (2), the label of the article failed to contain an accurate statement of the quantity of the contents; Section 403 (f), the labels contained representations in a foreign language, and the common or usual name of each ingredient did not appear thereon as required; Section 403 (i) (2), the label of the article failed to bear the common or usual name of each ingredient, since, in some cases, soybean oil was not listed; and, Section 403 (k), the article contained artificial coloring and, in one instance, artificial flavoring and failed to bear labeling stating that fact.

Further misbranding (one lot), Section 403 (c), the article was an imitation of another food, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

**DISPOSITION:** August 19, 1946. The Mamma Mia Importing Co., Inc., having appeared as claimant for all lots of the product and having consented to the entry of decrees, the libels were ordered consolidated, with the exception of that against the lot of 140 cases and 5 cases of the product at Jersey City. Judgments were entered condemning all 11 lots and ordering that the product be released under bond to be relabeled and repacked, or destroyed, under the supervision of the Federal Security Agency.

**10182. Adulteration and misbranding of salad oil and adulteration of salad dressing. U. S. v. 5 Cases of Salad Dressing (and 16 other seizure actions against salad oil and salad dressing). Default decrees of condemnation and destruction.** (F. D. C. Nos. 17218, 17219, 17234, 17337, 17394 to 17397, incl., 17552, 17553, 17599, 17600, 17691 to 17693, incl., 17727, 17922. Sample Nos. 20504-H, 21067-H, 21068-H, 21267-H, 21362-H, 24011-H, 24607-H, 24610-H to 24612-H, incl., 24741-H, 25109-H, 29896-H, 29903-H, 29905-H to 29907-H, incl., 29909-H to 29912-H, incl., 30710-H, 30711-H.)

**LIBELS FILED:** Between August 29 and October 13, 1945, Eastern District of Louisiana, Northern District of Texas, Northern District of California, Western District of Missouri, District of Nebraska, and District of Kansas.

**ALLEGED SHIPMENT:** Between May 11 and August 16, 1945, from Ardmore, Okla., by Gilmer W. Sparger, trading as Puny's WOP Salad Dressing Co., and Puny Sparger.

**PRODUCT:** 616 cases and 140 1-pint bottles and 194 8-ounce bottles of salad dressing, and 15 cases of salad oil, at Bogalusa and New Orleans, La., Dallas and Fort Worth, Tex., San Francisco and Oakland, Calif., Kansas City, Mo.,



Fremont, Nebr., and Hutchinson and Baxter Springs, Kans. Some of the cases contained 24 bottles in either 8-ounce or 1-pint sizes, and other cases contained 4 bottles in 1-gallon sizes. The salad dressing contained mineral oil in amounts ranging from 6 percent to 29 percent. The so-called salad oil consisted of artificially colored mineral oil.

**LABEL, IN PART:** "Puny's Famous W. O. P. Salad Dressing \* \* \* Contains: Vegetable or Cottonseed Oil, Vinegar, Salt, Water, Herbs and Spices," or "Puny's Famous Salad Oil. Non-Caloric, Non-Fattening, No Food Value Contains: White Mineral Oil U. S. P. and Extract of Annatto Seed."

**NATURE OF CHARGE:** Salad dressing. Adulteration, Section 402 (a) (1), the article contained added mineral oil, a deleterious substance, which may have rendered it injurious to health; and, Section 402 (b) (2), a substance containing nonnutritive mineral oil had been substituted in whole or in part for salad dressing containing vegetable or cottonseed oil, which the article was represented to be.

Salad oil. Adulteration, Section 402 (b) (2), mineral oil and an extract of annatto seed (an artificial color) had been substituted in whole or in part for salad oil. Misbranding, Section 403 (a), the designation "Salad Oil" was false and misleading as applied to artificially colored mineral oil; the label statement "Makes Any Salad Dressing Better" was false and misleading since the article could not be used in making salad dressing; and the labeling was misleading in that it failed to reveal the material fact that the article contained an oil which would interfere seriously with the assimilation of certain essential vitamins and minerals, and that when used as salad oil it might render the product in which so used injurious to health.

**DISPOSITION:** Between October 8, 1945, and January 22, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

### SPICES, FLAVORS, AND SEASONING MATERIALS

**10183. Adulteration and misbranding of prepared mustard. U. S. v. Jas. H. Forbes Tea and Coffee Co. and Frederick E. Stillman. Motion to quash overruled. Pleas of nolo contendere. Corporation fined \$800; individual, \$200.** (F. D. C. No. 16503. Sample Nos. 22648-H, 22649-H.)

**INFORMATION FILED:** August 14, 1945, Eastern District of Missouri, against Jas. H. Forbes Tea and Coffee Co., a corporation, St. Louis, Mo., and Frederick E. Stillman, vice president and secretary.

**ALLEGED SHIPMENT:** On or about January 23 and 29, 1945, from the State of Missouri into the State of Illinois.

**PRODUCT:** Examination of the product showed the presence of insects and insect fragments, and the jars were found to contain less than the declared weight.

**LABEL, IN PART:** "9 Oz. Net Forbes Martha Washington Brand \* \* \* Pure Prepared Mustard."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and insects; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** On October 5, 1945, the defendants filed a motion to quash the counts charging adulteration of the product on the grounds that the information did not allege that the mustard was deleterious or dangerous to the health of the consumer, and that the information did not set forth the amount of the insect fragments either by count or percentage. On April 9, 1946, defendants' motion to quash having been overruled, pleas of nolo contendere were entered and the corporation and the individual defendant were fined \$800 and \$200, respectively.

**10184. Misbranding of prepared mustard. U. S. v. 200 Cases of Prepared Mustard. Product ordered released under bond.** (F. D. C. No. 15879. Sample No. 23727-H.)

**LIBEL FILED:** On or about April 7, 1945, Southern District of Texas.



**ALLEGED SHIPMENT:** On or about March 7, 1945, by James H. Forbes Tea and Coffee Co., from St. Louis, Mo.

**PRODUCT:** 200 cases, each containing 24 9-ounce jars, of prepared mustard at Houston, Tex.

**LABEL, IN PART:** "9 Oz. Net Forbes Martha Washington Brand Pure Prepared Mustard."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, in that the label statement "9 Oz. Net" was inaccurate since the article was short-weight.

**DISPOSITION:** May 1, 1945. James H. Forbes Tea and Coffee Co. having appeared as claimant, the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**10185. Adulteration of chili pepper. U. S. v. 7 Barrels of Chili Pepper. Default decree of condemnation and destruction.** (F. D. C. No. 16009. Sample No. 32068-H.)

**LIBEL FILED:** May 4, 1945, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about March 27, 1945, by the C. L. Prats Chili Company, Los Angeles, Calif.

**PRODUCT:** 7 200-pound barrels of chili pepper at Detroit, Mich.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10186. Adulteration of chili peppers and ground chili pepper. U. S. v. 159 Bags of Chili Peppers (and 3 other seizure actions against chili peppers and ground chili pepper). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed.** (F. D. C. Nos. 15598, 15607, 15665, 15744. Sample Nos. 30937-H, 30938-H, 31706-H to 31711-H, incl., 31722-H, 31723-H, 32022-H.)

**LIBELS FILED:** Between March 8 and 26, 1945, Southern District of California and Southern District of New York.

**ALLEGED SHIPMENT:** Between the approximate dates of November 22, 1944, and February 21, 1945, by the C. L. Prats Chili Co. The chili peppers were shipped from McNeal and Douglas, Ariz., to Los Angeles and San Luis Rey, Calif., and the chili pepper was shipped from Los Angeles, Calif., to New York, N. Y.

**PRODUCT:** 213 bags of chili peppers at Los Angeles, Calif., 130 bags of chili peppers at San Luis Rey, Calif., and 15 162-pound barrels of ground chili pepper at New York, N. Y.

**LABEL, IN PART:** (Ground chili pepper) "Kingred Hungarian Style Paprika Ground Chili."

**NATURE OF CHARGE:** Chili peppers. Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent hairs, insect fragments, dirt, and rodent-chewed, insect-infested, and moldy chili peppers; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Ground chili pepper. Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments.

**DISPOSITION:** Between the dates of March 13 and 31, 1945, C. L. Prats, claimant, for the whole chili peppers, having admitted the allegations of the libels covering that product, judgments of condemnation were entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration. On April 11, 1945, no claimant having appeared for the ground chili pepper, judgment of condemnation was entered and the product was ordered destroyed.



**10187. Adulteration and misbranding of No Skipper Compound. U. S. v. 11 Cases of No Skipper Compound. Decree of condemnation and destruction.** (F. D. C. No. 16260. Sample No. 13639-H.)

**LIBEL FILED:** June 6, 1945, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about April 14, 1945, by James H. Forbes Tea and Coffee Co., from St. Louis, Mo.

**PRODUCT:** 11 cases, each containing 12 cans, of No Skipper Compound at Russellville, Ky.

**LABEL, IN PART:** "One Pound Net Wt. Cooksey's No Skipper Compound Composed of Red Pepper, Borax, Oil of Capsicum. Instructions for use Dampen your meat and rub all over thoroughly. Get in all cracks especially in hock end."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained an added poisonous and deleterious substance, borax, which may have rendered it injurious to health; and, Section 403 (a), the statements on the label were misleading in that they implied that the article might safely be used, whereas such use would be potentially dangerous to the health of the consumer.

**DISPOSITION:** December 10, 1945. The intervening petition of Gaines Cooksey, Russellville, Ky., claimant, having been dismissed, judgment of condemnation was entered and the product was ordered destroyed.

### MISCELLANEOUS FOOD PRODUCTS

**10188. Adulteration of chicle. U. S. v. 197 Bales and 834 Bales of Chicle. Consent decrees of condemnation. Product ordered released under bond.** (F. D. C. Nos. 17620, 17621. Sample Nos. 8023-H, 8024-H.)

**LIBELS FILED:** October 1, 1945, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about February 28 and April 24, 1945, from New Orleans, La., and Tampa, Fla.

**PRODUCT:** 834 140-pound bales, and 197 bales, each containing approximately 260 pounds, of chicle at Staten Island, N. Y., in possession of the Riveredge Warehouse Corporation. The product had been stored under insanitary conditions after shipment. Many of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent excreta.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 10, 1945. Peter Paul, Inc., Tampa, Fla., and M. D. Bromberg, New Orleans, La., claimants, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and cleansed or otherwise treated so as to render it fit for human consumption, under the supervision of the Federal Security Agency. In the event that such action were not possible, the product was to be denatured or treated so that it could not be used for human consumption.

**10189. Misbranding of ice cream and sherbet mix base. U. S. v. 28 Cartons of Ice Cream and Sherbet Mix Base. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. D. C. No. 17202. Sample No. 36268-H.)

**LIBEL FILED:** On or about August 30, 1945, District of Colorado.

**ALLEGED SHIPMENT:** On or about August 3, 1945, by the Bond Corporation, from Portland, Oreg.

**PRODUCT:** 28 cartons, each containing 36 1-ounce envelopes, of ice cream and sherbet mix base at Denver, Colo. Examination showed that the product consisted of a powdered mixture consisting essentially of a large proportion of soy flour with small amounts of rice starch, dried skim milk, salt, and artificial color.

**LABEL, IN PART:** "Old Mill \* \* \* Ice Cream and Sherbet Mix Base."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "Ice cream and Sherbet Mix Base \* \* \* Makes 3 Pints—Serves 16 \* \* \* Makes All Flavors," were false and misleading since the statements represented



and suggested that the product contained the basic ingredients of ice cream and sherbet, whereas the product contained soy flour, an ingredient not customarily used to make ice cream and sherbet, and did not contain the basic dairy and sweetening ingredients of ice cream and sherbet. Further misbranding, Section 403 (a), the statement "Contains Sugar," which appeared on the label, was false and misleading since the article contained no sugar.

**DISPOSITION:** November 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

**10190. Adulteration of mincemeat. U. S. v. 97 Tubs of Mince Meat. Default decree of condemnation and destruction. (F. D. C. No. 17133. Sample No. 4259-H.)**

**LIBEL FILED:** August 20, 1945, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 22, 1944, and January 7, 1945, by Edgar Brick & Sons, from Crosswicks, N. J.

**PRODUCT:** 97 30-pound tubs of mincemeat at Philadelphia, Pa.

**LABEL, IN PART:** "Old Homestead Mince Meat."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots and fruit flies.

**DISPOSITION:** September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10191. Adulteration of rennet paste. U. S. v. 1 Keg and 1 Tub of Rennet Paste. Default decree of destruction. (F. D. C. No. 17259. Sample No. 13100-H.)**

**LIBEL FILED:** September 11, 1945, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 12, 1945, by J. Marchioretto and Co., Kenosha, Wis.

**PRODUCT:** 1 250-pound keg and 1 75-pound tub of rennet paste at Washington Court House, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of cow hairs, plant fibers, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 2, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed.

**VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES**

**10192. Adulteration of Vitoloids. U. S. v. Martin Pretorius (Pretorius Approved Products). Plea of nolo contendere. Fine, \$500. (F. D. C. No. 16536. Sample No. 71952-F.)**

**INFORMATION FILED:** September 7, 1945, Southern District of California, against Martin Pretorius, trading as Pretorius Approved Products, Glendale, Calif.

**ALLEGED SHIPMENT:** On or about May 17, 1944, from the State of California into the State of Washington.

**PRODUCT:** Examination of a sample showed that it contained 31.6 International Units of vitamin B<sub>1</sub> per tablet.

**LABEL, IN PART:** "Pretorius Vitoloids \* \* \* One tablet also supplies 40 of the 333 units of Vitamin B-1 required daily."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted from the article.

**DISPOSITION:** December 7, 1945. A plea of nolo contendere having been entered, the defendant was fined \$500.

**10193. Adulteration and misbranding of vitamin products. U. S. v. 67 Bottles of Vita-Pels Pellets, etc. Default decree of condemnation and destruction. (F. D. C. No. 16699. Sample Nos. 26495-H to 26500-H, incl.)**

**LIBEL FILED:** July 20, 1945, District of Colorado.



**ALLEGED SHIPMENT:** Between the approximate dates of April 20 and June 26, 1945, by Vitamin Stores, Inc., from Omaha, Nebr.

**PRODUCT:** 67 bottles of Vita-Pels Pellets, 21 bottles of Bevron Tablets, 8 bottles of Pro-B-Ron Capsules, 8 bottles of vitamin E capsules, 29 bottles of Nervron Tablets, and 19 bottles of Vita-Slim Capsules at Denver, Colo., together with accompanying labeling consisting of 300 circulars entitled "Spring 1945," 800 circulars entitled "Summer 1945," 49 circulars entitled "Do You Want to Reduce Your Figure with the Vita-Slim Plan," 2 placards entitled "Vita-Pels" and "Vita-Slim," and a number of circulars enclosed with the Vita-Slim Capsules entitled "The Improved! Vita-Slim Plan to Help You Reduce Weight."

Examination showed that the Bevron Tablets were 43 percent deficient in niacin.

**LABEL, IN PART:** "Pellets Vita-Pels Improved Vitamins and Minerals, 9 Vitamins In Each Red Pellet, 12 Minerals In Each Black Pellet"; "Tablets Bevron B Complex Vitamins with Liver and Iron. Each Tablet Contains \* \* \* Niacin 20 mgms."; "Capsules Pro-B-Ron Liver and Iron with B Complex"; "Capsules Vitamin E Each capsule contains approximately six times as much Vitamin E as the equivalent amount of wheat germ oil"; "Nervron Tablets Each Tablet Contains Vitamin B<sub>1</sub> 15 milligrams"; "Improved Vita-Slim Capsules Vitamin Dietary Supplement Ingredients: Vita-Slim contains 10 essential Amino Acids from Soya Hydrolysates, plus B Complex factors."

**NATURE OF CHARGE:** *Vita-Pels Pellets.* Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of calcium, phosphorus, iron, and iodine, and the amounts of magnesium, copper, cobalt, manganese, zinc, sodium, potassium, and sulfur furnished by a specified quantity of the product when consumed during a period of 1 day, and the need for cobalt and manganese not having been established, its label failed to bear, as required by the regulations, a statement to that effect.

*Bevron Tablets.* Adulteration, Section 402 (b) (1), a valuable constituent, niacin, had been in whole or in part omitted from the article.

*Pro-B-Ron Capsules.* Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary purposes by reason of its vitamin and mineral content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of iron furnished by a specified quantity of the article during a period of 1 day.

*Vitamin E Capsules.* Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin E content, and its label failed to bear, as required by the regulations, a statement of the amount of vitamin E furnished by a specified quantity of the article during a period of 1 day; and the need for vitamin E in human nutrition not having been established, its label failed to bear, as required by the regulations, a statement to that effect.

*Nervron Tablets.* Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin B<sub>1</sub> content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of vitamin B<sub>1</sub> furnished by a specified quantity of the product when consumed during a period of 1 day.

*Vita-Slim Capsules.* Misbranding, Section 403 (a), certain statements and the design of a slender woman, appearing in the labeling of the article, were false and misleading since they created the impression that use of the article would be effective to cause loss of body weight, quickly, safely, and easily, whereas the article would not be effective for such purpose.

The articles, with the exception of the *Vita-Slim Capsules*, were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

**DISPOSITION:** September 27, 1945. No claimant having appeared, judgment of condemnation was entered and the products, together with the printed matter, were ordered destroyed.



**10194. Misbranding of vitamin and mineral products. U. S. v. 30 5/12 Dozen Packages of American Calcium Pantothenate Tablets, 10 7/12 Dozen Packages of (Thiamin) Vitamin B<sub>1</sub> Tablets, 5 1/12 Dozen Packages of American Vitamin A and D Tablets, 55 Packages of Vitamin and Mineral Tablets, 214 Packages of Min-E-Vita Capsules, and a quantity of printed matter. Default decree of condemnation and destruction. (F. D. C. No. 16073. Sample Nos. 20341-H to 20343-H, incl., 20348-H, 20349-H.)**

**LIBEL FILED:** On or about May 9, 1945, Western District of Missouri.

**ALLEGED SHIPMENT:** By the American Beauty Products Co., from Chicago, Ill. The products were shipped between the approximate dates of September 29, 1943, and March 16, 1945, and the printed matter was shipped on or about February 6 and 10 and March 7, 1945.

**PRODUCT:** Vitamin and mineral products, as listed above, and a number of accompanying catalogs, display cards, and circulars entitled, "City Catalog No. 81," "American's Anti-Gray Hair Vitamins," and "Vitamins and Minerals," at Kansas City, Mo.

Examination showed that the calcium pantothenate tablets, the (thiamin) vitamin B<sub>1</sub> tablets, and the vitamin A and D tablets contained the stated ingredients; that the vitamin and mineral tablets contained vitamins and, among other minerals, approximately 1 percent and 4 percent of the minimum daily requirements of phosphorus and calcium, respectively; and that the Min-E-Vita capsules contained vitamins, including thiamine and riboflavin, and minerals, including calcium, iron, and phosphorus.

**NATURE OF CHARGE:** *American Calcium Pantothenate Tablets.* Misbranding, Section 403 (a), the following statements in the catalogs and on the display cards were false and misleading since the product would not be of value in the conditions represented and suggested: (Catalog) "Anti-Gray Hair And Nail Vitamins (Calcium-Pantothenate Dextrorotatory) Now you can sell Calcium Pantothenate Vitamins to your patrons. Good Housekeeping Bureau experiments of 16 months showed that 88 per cent of men and women subjected to the tests showed positive evidence of a return of natural hair color. It revealed also definite improvement in the texture of the skin and the elasticity of the finger nails. \* \* \* For Gray Hair \* \* \* American's Anti-Gray Vitamin \* \* \* Newest Vitamin Discovery. Good Housekeeping tests showed 88% return of hair color"; and (Display Card) "Anti-Gray Hair (Factor) Vitamins \* \* \* 88% Return Of Hair Color!"

*Vitamin B<sub>1</sub> Tablets.* Misbranding, Section 403 (a), the following statements in the catalogs were false and misleading since the product would not be of value in the conditions represented and suggested: "Vitamin B<sub>1</sub> (For Nerves) Combats Fatigue, Aids Digestion. Source of added energy and 'pep'." Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin B<sub>1</sub> content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of thiamine (vitamin B<sub>1</sub>) supplied by the article when consumed in a specified quantity during a period of 1 day.

*American Vitamin A and D Tablets.* Misbranding, Section 403 (a), the following statements in the catalogs were false and misleading since the product would not be of value in the conditions represented and suggested: "Vitamins A & D (for eyes and teeth) Prevent nightblindness. Protects entire respiratory tract, lungs, nose, throat, sinus and eyes."

*Vitamin and Mineral Tablets.* Misbranding, Section 403 (a), the following label statements were misleading since they failed to reveal the material fact that the product would not supply significant amounts of the stated minerals: "Supplies 4% Calcium \* \* \* 1/2% Phosphorus \* \* \* of the minimum daily requirement of these minerals. The needs of Sodium, Potassium, Aluminum, Copper and Manganese in human nutrition are not established but suggested dosage will supply 1/25 Milligram of each." Further misbranding, Section 403 (a), certain statements on the packages and in the catalogs were misleading since they represented and suggested that the product would be efficacious in the cure, mitigation, treatment, and prevention of lowered resistance to colds, hay fever, asthma, pimples, acne, eczema, general depression, tiredness, listlessness, nervousness, hyperacidity, arthritic conditions, painful menstruation, general lack of vitality, peptic ulcer, neuritis, arthritis, heart disease, tooth and gum infections, low grade infections, cancer, pernicious



anemia, digestive disturbances, retarded growth, general weakening of the body in adults, night blindness, sinusitis, colds, respiratory disorders (lungs, nose, throat, bronchial tubes), xerophthalmia (drying of eyelids and inflammation of lid and eyeball), corneal ulcer, tear duct infection, weak, lifeless hair, defective dentine and tooth enamel, failure of blood regeneration in pernicious anemia, kidney inflammation and kidney stones, improper muscular function, abscessed ear, inflammation and swelling of tongue, lack of growth of thyroid (male), enlarged thyroid (female), edema colitis ulcerative, sexual degeneration, palpitation and enlargement of the heart, labored breathing, loss of weight, intestinal and colonic disturbances, peripheral neuritis, beriberi, nervousness, irritability, poor appetite, constipation, diarrhea, convulsions, paralysis, muscular soreness, dry, scaly skin, decreased reproductive power, bone marrow degeneration, subcutaneous bleeding, cataract of eyes, tendency to bleed from the capillaries or small blood vessels, defective calcification of both bones and teeth, weakening of supporting cartilage and consequent displacement of bones, anemia, damage to heart and general muscular system, injury to sex organs, scurvy, low blood pressure, reduced secretion of thyroid, rapid respiration, rapid heart action, duodenal ulcers, miscarriage, brittle bones, joint pains, swelling joints, bone abscess, arthritis, improper growth and formation of bones and teeth, enlarged joints, low concentration of calcium or phosphorus, or both, in the blood, low acidity of the intestinal tract, rickets, tuberculosis, skin disorders, sore mouth and tongue, nervous depression, and pellagra. The article would not be of value in the conditions stated and implied. Further misbranding, Section 403 (f), the information concerning the vitamin and mineral properties of the article required by Section 403 (j) was not prominently placed on the label with such conspicuousness as to render it likely to be read and understood under customary conditions of purchase and use, since the information appeared on the bottom of the package and was printed in type of minute size on the label of the bottle containing the product.

*Min-E-Vita Capsules.* Misbranding, Section 403 (a), certain statements on the package of the article and in a leaflet entitled "Why Min-E-Vita," enclosed in the package, were false and misleading since they represented or suggested that the article would supply vitamins and minerals effective in the restoration of color to gray hair; that it would be difficult, if not impossible, to obtain adequate amounts of minerals from common foods; and that the purchaser might reasonably expect to obtain health, growth, long life, and resistance to disease through the use of the product, all of which was contrary to fact. Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamins A, B, C, D, B<sub>2</sub> (riboflavin), and E, and its calcium pantothenate, calcium, phosphorus, iron, sodium, magnesium, potassium, aluminum, copper, iodine, and manganese content; and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of the vitamins, A, B, C, D, and B<sub>2</sub>, and calcium, phosphorus, iron, and iodine, and the amounts of vitamin E, sodium, magnesium, potassium, copper, manganese, and aluminum furnished by a specified quantity of the article when consumed during a period of 1 day; and, since the need in human nutrition for vitamin E, calcium pantothenate, aluminum, and manganese has not been established, its label also failed to bear, as required by the regulations, the statement that the need for vitamin E, calcium pantothenate, aluminum, and manganese in human nutrition has not been established.

**DISPOSITION:** June 26, 1945. No claimant having appeared, judgment of condemnation was entered and the products and printed matter were ordered destroyed.

**10195. Adulteration and misbranding of Major B-Complex Vitamin Tablets. U. S. v. 85 7/12 Dozen Boxes and 288 Dozen Boxes of Major B-Complex Vitamin Tablets. Default decrees of condemnation and destruction.** (F. D. C. Nos. 17391, 17564. Sample Nos. 11581-H, 20266-H.)

**LIBELS FILED:** On or about September 19 and October 9, 1945, District of Kansas and District of Vermont.

**ALLEGED SHIPMENT:** Between the approximate dates of February 13 and April 4, 1944, by Major Vitamins, Inc., from New York, N. Y.



**PRODUCT:** Major B-Complex Vitamin Tablets. 190 dozen 24-tablet boxes, 19½ dozen 48-tablet boxes, 159⅓ dozen 100-tablet boxes, and 4¾ dozen 200-tablet boxes, in various lots, at Wichita, Kans., and Brattleboro, Vt.

**LABEL, IN PART:** "Major B Complex Brand Natural Vitamin Tablets," or "Major B Brand Natural B-Complex Vitamins."

**NATURE OF CHARGE:** Kansas lot. Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in whole or in part omitted or abstracted from the article. Misbranding, Section 403 (a), the following label statements on the article were false and misleading as applied to the article, which contained less than the stated amount of thiamine (vitamin B<sub>1</sub>): "Thiamine (Vitamin B<sub>1</sub>) Each Tablet .333 Milligrams 333 Micrograms (3 Tablets) 1000 Micrograms \* \* \* 3 Major B-Complex tablets daily provide the minimum daily adult requirement of Thiamine (Vitamin B<sub>1</sub>)," or "Thiamine (Vitamin B<sub>1</sub>) Per Tablet .333 Milligrams 333 Micrograms Three Tablets 1000 Micrograms \* \* \* *Three Tablets Daily* provide the minimum daily adult requirement of Thiamine (Vitamin B<sub>1</sub>)."

All lots. Misbranding, Section 403 (a), the label statement on the article "B Complex \* \* \* Tablets" was misleading as applied to the article, which supplied a nutritionally inconsequential amount of niacin, one of the vitamins of the B complex, the need for which in human nutrition is definitely established. Further misbranding, Section 403 (a), certain label statements on the article and statements in circulars entitled "Buoyant Health For All the Family," accompanying the article, were false and misleading since they represented and suggested that the article would be effective to provide greater energy, steadier nerves, better digestion, improved health and vigor, better appetite, and insurance from vitamin deficiencies; that it would promote physical well-being; that it would afford protection against frequent colds, constipation, fatigue, digestive upsets, and other common ills; that it would provide the vitamins found in whole wheat bread, eggs, milk, liver, and tomato juice; that there are widespread dietary deficiencies that would be corrected by use of the article; that it contained nutritionally significant amounts of all vitamins of the B-complex; that foods are unreliable sources of vitamins; and that therefore it is desirable, if not necessary, to use the article to supplement the ordinary diet. The article would not be effective for the purposes represented; it would not provide the vitamins found in whole wheat bread, eggs, milk, liver, and tomato juice; there are not widespread dietary deficiencies that would be corrected by use of the article, and it did not contain nutritionally significant amounts of all vitamins of the B-complex. Furthermore, foods are reliable sources of vitamins, and it is not desirable or necessary to use the article to supplement the ordinary diet.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

**DISPOSITION:** November 21, 1945, and January 21, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**10196. Misbranding of Bonaid Tablets. U. S. v. 139 Bottles and 22 Bottles of Bonaid Tablets. Default decree of condemnation and destruction.** (F. D. C. No. 17341. Sample No. 31228-H.)

**LIBEL FILED:** September 10, 1945, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 25, 1945, by the L. M. and W. Products Co., from Detroit, Mich.

**PRODUCT:** 139 100-tablet bottles and 22 600-tablet bottles of Bonaid Tablets at Los Angeles, Calif. Examination indicated that the product contained, among other things, approximately 117 milligrams of calcium and 54 milligrams of phosphorus per tablet.

**LABEL, IN PART:** "Bonaid 100 [or "600"] Tablets Each Tablet contains natural Bone Phosphate (supplying Calcium, Phosphorus, \* \* \*), plus 200 U. S. P. Units of Vitamin D Synthetic in a base of suitable excipients."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "Bonaid Tablets aid in building sound teeth, nails and bones \* \* \* an effective aid in the prevention of tooth decay \* \* \* an important factor in the prevention of tooth decay," were false and misleading since the article



would not be effective to build sound teeth, nails and bones, and to prevent tooth decay; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin D, calcium, and phosphorus content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of calcium and phosphorus furnished by a specified quantity of the product when consumed during a period of 1 day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1880.

**DISPOSITION:** November 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10197. Misbranding of sea water (Cal-O-Dine). U. S. v. 17 Bottles of Sea Water. Default decree of condemnation and destruction.** (F. D. C. No. 17577. Sample No. 27976-H.)

**LIBEL FILED:** October 4, 1945, District of Oregon.

**ALLEGED SHIPMENT:** From Alameda, Calif., by Cal-O-Dine. The product was shipped on or about June 22, 1945, and a number of leaflets were shipped on or about February 1, 1945.

**PRODUCT:** 17 ½-gallon bottles of sea water at Eugene, Oreg., together with a number of leaflets headed "The Mysterious ingredient of sea-water." Analyses indicated that the product was sea water.

**LABEL, IN PART:** "Sea Water Sold Under Trade Name of Cal-O-Dine."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1873, in which are set forth the false and misleading statements referred to above.

**DISPOSITION:** November 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**10198. Misbranding of candy. U. S. v. 8 Cases of Candy. Default decree of condemnation and destruction.** (F. D. C. No. 17389. Sample No. 29700-H.)

**LIBEL FILED:** September 14, 1945, Northern District of California.

**ALLEGED SHIPMENT:** On or about June 11, 1945, by New Orleans Confections, from Chicago, Ill.

**PRODUCT:** 8 cases, each containing 24 boxes, of candy at San Francisco, Calif. Examination showed that the product consisted of individually wrapped pieces of candy containing a very small quantity of nut meat pieces. The boxes were not filled to capacity, since an inverted tray about 1½ inches wide occupied the center of the box.

**LABEL, IN PART:** "New Orleans Confections Assorted Divinity," [picture of large numbers of pecan halves and pieces]; [sticker inside box] "For your enjoyment we have enriched our candies with extra whipping cream and vitamins."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label designation "New Orleans Confections" was misleading since the article was manufactured in Chicago, Ill.; and, Section 403 (a), the picture of large numbers of pecan halves and pieces, which appeared on the label, was false and misleading since the article contained a very small quantity of nut meat pieces.

Further misbranding, Section 403 (d), the container was so made, formed, and filled as to be misleading since the box was larger than necessary for the amount of candy that it contained; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of the label declaration "we have enriched our candy with \* \* \* vitamins," and the label failed to bear the name of the specific vitamins present in the product and a statement of the quantities thereof prescribed by the regulations as necessary in order fully to inform purchasers as to its value for such uses.

**DISPOSITION:** October 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.



**10199. Adulteration of Viamineral Compound and Via D Mineral. U. S. v. 50 Bags of Viamineral Compound and 25 Bags of Via D Mineral. Default decree of condemnation and destruction.** (F. D. C. No. 17643. Sample Nos. 2793-H, 2794-H.)

**LIBEL FILED:** October 11, 1945, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about July 30, 1945, by the Vitamineral Products Co., from Peoria, Ill.

**PRODUCT:** 50 100-pound bags of Viamineral Compound and 25 25-pound bags of Via D Mineral at Richmond, Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the articles contained an added poisonous and deleterious substance, fluorine, which may have rendered them injurious to health.

**DISPOSITION:** December 3, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**10200. Misbranding of Victor Wheat Germ Oil. U. S. v. 501 Bottles and 28 Jugs of Victor Wheat Germ Oil, and a number of circulars. Consent decree of condemnation. Product ordered released under bond.** (F. D. C. No. 15811. Sample No. 19112-H.)

**LIBEL FILED:** April 13, 1945, Western District of Wisconsin.

**ALLEGED SHIPMENT:** By the Sunland Manufacturing Co., from Minneapolis, Minn. The product was shipped between the approximate dates of January 9 and March 20, 1945. A portion of the circulars were packed in the shipping containers of the product, and the remainder of the circulars were shipped separately in January 1945.

**PRODUCT:** 501 bottles and 28 jugs of Victor Wheat Germ Oil at Marshfield, Wis., together with 500 circulars entitled "Sending Shy Breeders To Slaughter is out of Style!" and 100 circulars entitled "Victor Wheat Germ Oil A nutritional aid to breeding stock and poultry."

Examination of a sample disclosed that the product was a golden amber oil with a wheat-like odor, such as wheat germ oil.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements on the label of the article and in the circulars were false and misleading.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1690, wherein is set forth the nature of the false and misleading claims in the labeling.

**DISPOSITION:** August 14, 1945. The Sunland Manufacturing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

## INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 10001 TO 10200

### PRODUCTS

	N. J. No.		N. J. No.
Almonds, glace_____	10174	Blueberries_____	10147-10152
American Calcium Pantothenate		Bonaid Tablets_____	10196
Tablets_____	10194	Bread, Swedish Rye Brittle____	10009
American Vitamin A and D Tab-		enriched_____	10008
lets _____	10194	Brewers barley_____	10077
Apples, dried_____	10143, 10144	flakes_____	10075, 10076
Bakery products_____	<sup>1</sup> 10007-10013	grits_____	10076-10080
Barley, brewers_____	10077	rice_____	10081, 10082
grits_____	10071, 10072	hulls_____	10083
Beans, canned_____	10159	See also Grits.	
with pork_____	10160	Butter _____	<sup>2</sup> 10107-10116
Beverages and beverage mate-		Buttermilk, condensed____	10124, 10125
rials_____	10001-10006	Cal-O-Dine. See Sea water.	
Bevon Tablets_____	10193	Candy_____	<sup>2</sup> 10094-10101, 10198

<sup>1</sup> (10007) Permanent injunction issued. Contains findings of fact and conclusions of law.

<sup>2</sup> (10094, 10107) Permanent injunction issued.

	N. J. No.		N. J. No.
Cereals and cereal products	10007-10093	Nervron Tablets	10193
Cheese	10117-10123	No Skipper Compound	10187
with walnuts	10121	Noodles. <i>See</i> Macaroni and noodle products.	
Cheddar	10117-10120	Nuts	10174-10179
paste	10123	Oatmeal, ground	10086
Ricotta	10122	Oils and fats	10180-10182
Chicken ravioli	10069	Oleomargarine	10126
Chicle	10188	Orange drink	10005
Chili pepper(s)	10185, 10186	Pastry flour	10034-10038
Chocolate	10102-10104	Peanut(s)	10176, 10177
Cones, ice cream	10010, 10011	brittle	10100
Corn bread mix	10085	Peas, canned	10163-10165
canned	10161	green split	10162
grits	10073, 10075, 10076, 10078	Phosphated flour	10039-10051
meal	10014-10021, 10041	Pineapple, crushed, frozen	10154
Cottonseed meal	10131	fruit drink	10006
Crackers, oyster	10012	Popcorn	10087-10091
<i>See also</i> Wafers.		Potato chips	10166, 10167
Dairy products	<sup>2</sup> 10107-10126, 10191	Pro-B-Ron Capsules	10193
Dates, pitted	10153	Raisin(s)	10145, 10146
Dog food	10132	paste	10155
E-Z Sauce (dehydrated apples)	10144	Raspberry, black, puree	<sup>4</sup> 10156
Eggs, frozen	10129, 10130	Ravioli, chicken	10069
shell	10127, 10128	Rennet paste	10191
Enriched flour	10060-10062	Rice, brewers	10081, 10082
Esterex (beverage stabilizer)	<sup>3</sup> 1001, 1002	hulls	10083
Fats. <i>See</i> Oils and fats.		flour	10053-10055
Feeds and grains	10131-10134	granulated	10092
Filberts	10175	grits	10074
Fish	10135-10142	Ry-Krisp Wafers	10013
Flour	10022-10062	Rye flour	10056
Fruits and vegetables	<sup>4</sup> 10003-10006, 10143-10173	Salad dressing	10182
fruit beverages	10003-10006	oil	10182
dried	10143-10146	Sauerkraut juice	10168
fresh and frozen	10147-10154	Sausage binder, cereal	10084
miscellaneous fruit products	<sup>4</sup> 10155-10158	Sea water (Cal-O-Dine)	10197
vegetables and vegetable products	10159-10173	Self-rising flour	10039-10041, 10044-10052
Grains. <i>See</i> Feeds and grains.		Spaghetti. <i>See</i> Macaroni and noodle products.	
Grape juice	10003	Spices, flavors, and seasoning materials	10183-10187
Grapefruit juice	10004	Spinach, canned	10169, 10170
Grits, barley	10071, 10072	Stabilizers, beverage	<sup>3</sup> 10001, 10002
brewers	10076-10080	Stock feed	10133
corn	10073, 10076, 10078	Stock-Gro	10134
meal	10075	Sugar	10105, 10106
rice	10074	Sweet potato puree, frozen	10171
Ice cream cones	10010, 10011	Turnip greens, canned	10172
Ice cream and sherbet mix base	10189	Vegetable cocktail	10173
Macaroni and noodle products	10063-10069	<i>See also</i> Fruits and vegetables.	
Major B-Complex Vitamin Tablets	10195	Viamineral Compound and Via D Mineral	10199
Mayonnaise	10180	Victor Wheat Germ Oil	10200
Min-E-Vita Capsules	10194	Vinegar	10157, 10158
Mincemeat	10190	Vita-Pels Pellets and Vita-Slim Capsules	10193
Mustard	10183, 10184		

<sup>2</sup> (10094, 10107) Permanent injunction issued.<sup>3</sup> (10001) Seizure contested. Contains findings of fact and conclusions of law.<sup>4</sup> (10156) Contains decision denying claimant's motion that Food and Drug Administration supervise reconditioning of product for manufacture into jellies; also denying Government's motion to set aside portion of decree.



	N. J. No.		N. J. No.
Vitamin preparations and foods for special dietary uses	10192- 10200	Walnuts	10178, 10179
Vitoloids	10192	Wheat	<sup>5</sup> 10070
Wafers, Ry-Krisp	10013	germ oil	10200
		middlings	10093
		Whole wheat flour	10057-10059

## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
Abendroth, A. G. E.:		Brick, Edgar, & Sons:	
candy	10100	mincemeat	10190
Abilene Flour Mills Co.:		Burley Flour Mills:	
enriched flour	10062	plain flour and self-rising flour	10045
Alabama Flour Mills:		Burnham Morrill Seafood Corp.:	
corn meal	10014	frozen rosefish fillets	10138
Aldama Products Co.:		Burrus Mill & Elevator Co.:	
E-Z Sauce (dehydrated apples)	10144	flour	10025
Almora Cooperative Cheese Fac- tory:		Cal-O-Dine:	
Cheddar cheese	10119	Sea water (Cal-O-Dine)	10197
American Beauty Products Co.:		California Fruit Chimes Co.:	
vitamin and mineral products	10194	Spanish nut toffee	10101
Arkansas City Flour Mills:		Camp, W. A., Co., Inc.:	
flour	10039, 10047, 10050	dried apples	10143
Arkansas State Rice Milling Co.:		Camp, William A., Co., Inc.:	
brewers rice	10082	raisin paste	10155
Armour & Co.:		Canadian Mill & Elevator Co.:	
cottonseed meal	10131	plain flour, self-rising flour, and phosphated flour	10046
oleomargarine	10126	Cannon Valley Milling Co.:	
Attala County Poultry & Feed Co.:		whole wheat flour and plain flour	10057
phosphated flour, self-rising flour, and corn meal	10041	Capitol Fish Co.:	
Ballard & Ballard Co., Inc.:		frozen sweet potato puree	10171
pastry flour	10035	Caskey, H. C.:	
phosphated flour and self-rising flour	10051	flour	10024
Baltimore & Ohio Warehouse:		Centennial Flouring Mills Co.:	
green split peas	10162	pastry flour	10036
Basic Food Materials, Inc.:		Center Milk Products Co.:	
cereal sausage binder	10084	butter	10115
Bay Ridge Packing Co.:		Central Baking Co.:	
pineapple fruit drink	10006	enriched bread	10008
Becker, C., Milling Co.:		Central Grain & Malting Co.:	
self-rising flour and phosphated flour	10048	barley grits	10071
Better Taste Popcorn Co.:		Champion Rice Mills of Tennes- see:	
popcorn	10087, 10088	granulated rice	10092
Blair Elevator Corp.:		Christensen Products Co.:	
corn meal	10018	grapefruit juice	10004
Boehm, W., Co.:		Cleveland-Sandusky Brewing Corp.:	
macaroni and noodle products	10065	brewers grits	10079
Bond Corp.:		Clofine, H. K.:	
ice cream and sherbet mix base	10189	condensed buttermilk	10125
Booth Fisheries:		Clover Creamery Co.:	
frozen hake fillets	10137	butter	10113
Bowman, J. T.:		Collen County Mill & Elevator Co.:	
wheat	<sup>5</sup> 10070	flour	10030
Brewster Ideal Chocolate Co.:		Colorado Milling & Elevator Co.:	
chocolate	10103	pastry flour	10037
		Comet Candy Co.:	
		candy	10097

<sup>5</sup> (10070) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Commander Milling Co.:		Giessing Flour Mills:	
flour -----	10033	flour -----	10026
Conkey, G. E., Co.:		stock feed -----	10133
corn meal -----	10019	Gilstar Milling Co.:	
Crete Mills:		flour -----	10032
plain flour and self-rising flour -----	10045	Gioia, Alfonso:	
Crown Baking Co., Inc.:		macaroni products -----	10067
ice cream cones -----	10011	Gioia, Alfonso, & Sons:	
Daisy-Fresh Products Co.:		macaroni products -----	10066
sauerkraut juice -----	10168	Gomperts, Jack, Co.:	
Davis Cleaver Produce Co.:		dried apples -----	10143
butter -----	10112	Gorton Pew Fisheries Co., Ltd.:	
Davis Milling Co., Inc.:		frozen whiting fillets -----	10141
corn meal -----	10021	Great Atlantic & Pacific Tea Co.:	
Davis Nut Shelling Co.:		chicken ravioli -----	10069
shelled walnuts -----	10178	Green Island Packing Co.:	
Decatur Milling Co.:		canned codfish flakes -----	10135
brewers corn grits -----	10078	Grossjean, C. E.:	
Deerfield Packing Corp.:		rice flour -----	10053
canned peas -----	10163	Hallren Poultry & Creamery Co.:	
Dexter & Willingham Warehouse:		butter -----	10108
sugar -----	10106	Haslett Humboldt Warehouse:	
Dixie Portland Flour Co.:		flour -----	10028
phosphated flour and self-rising		Hereford Creamery Co.:	
flour -----	10039	butter -----	10109
Dixie Portland Flour Mills:		Hershey Chocolate Corp.:	
flour -----	10050	chocolate coating -----	10104
Duche, T. M., & Sons, Inc.:		Higginsville Flour Mills:	
pitted dates -----	10153	flour -----	10050
Eagle Roller Mill Co.:		Holly Beverage Co.:	
whole wheat flour -----	10058	orange drink -----	10005
Eastern Baking Co.:		Hollywood Candy Co.:	
ice cream cones -----	10010	candy -----	10098
Economou, C.:		Humboldt Milling Co.:	
Ricotta cheese -----	10122	flour -----	10029
Edsil Trading Corp.:		Hunt Brothers Packing Co.:	
canned codfish flakes -----	10135	canned spinach -----	10170
Eldeen Spice Co.:		Hunter Milling Co.:	
wine vinegar -----	10158	wheat middlings -----	10093
Eppley Pop Corn Co.:		Hurff, Edgar F., Co.:	
popcorn -----	10091	canned pork and beans -----	10160
Evans Milling Co.:		Hygrade Bakery:	
brewers grits -----	10080	potato chips -----	10166
Farmers Cotton & Peanut Co.:		Hygrade Food Products Corp.:	
peanuts -----	10176	butter -----	10114
Farmers Rice Growers Coop.:		Illinois Cereal Mills, Inc.:	
rice flour -----	10054	brewers flakes and corn meal	
Federal Cold Storage Co.:		grits -----	10075
Cheddar cheese -----	10117	Independent Fish Co.:	
Filippone, B., & Co.:		frozen rosefish fillets -----	10139
macaroni and spaghetti -----	10063	International Milling Co.:	
Forbes, Jas. H., Tea & Coffee Co.:		wheat middlings -----	10093
No Skipper Compound -----	10187	Ismert-Hincke Milling Co.:	
prepared mustard -----	10183, 10184	plain flour and self-rising flour -----	10045
Fort Collins Flour Mills Co.:		wheat middlings -----	10093
phosphated flour -----	10042	Italian American Paste Co., Inc.:	
Franchetti, J.:		macaroni and noodle products -----	10064
blueberries -----	10150	Jaeger Milling Co.:	
Frank, C. R.:		rye flour -----	10056
popcorn -----	10090	Kaulbeck-Earle, Inc.:	
Geidel Canneries, Inc.:		pastry flour -----	10034
canned peas -----	10164	Kay Sales Co.:	
Genest Brothers, Inc.:		canned smoked shad -----	10136
flour -----	10022		



	N. J. No.		N. J. No.
Keim Produce Co.:		Miller Bros. Foods Co.:	
frozen crushed pineapple-----	10154	frozen crushed pineapple-----	10154
Klein Chocolate Co., Inc.:		Missouri Flour Co.:	
chocolate-----	10102	flour-----	10050
Kramer, J. R., Inc.:		Model Mill Co.:	
butter-----	10113	corn meal-----	10016
Krause, C. A., Milling Co.:		Monmouth Products Co.:	
brewers corn grits and brewers		grape juice-----	10003
flakes-----	10076	Morgan, N. M.:	
L. M. & W. Products Co.:		candy-----	<sup>2</sup> 10094
Bonaid Tablets-----	10196	Morgan, Mrs. N. M.:	
Lake Shore Canning Co.:		candy-----	<sup>2</sup> 10094
canned peas-----	10165	Morgan Candy Mfg. Co. <i>See Mor-</i>	
Lakeside Creamery:		gan, N. M., or Morgan, Mrs.	
cheese paste-----	10123	N. M.	
Land-O-Lakes, Inc.:		Morris Flour Mills:	
Cheddar cheese-----	10120	flour-----	10023
Larabee Flour Mills Co.:		Morton Milling Co.:	
plain flour and self-rising flour	10045	flour-----	10027
Lawrenceburg Roller Mills, Div.		Mount Vernon Mfg. Co.:	
of Acme Evans Co.:		brewers grits and brewers bar-	
enriched flour-----	10060	ley-----	10077
whole wheat flour-----	10059	Mt. Vernon Milling Co.:	
Leading Candy Co.:		corn grits-----	10073
candy-----	10096	Myers, Joe Franklin, Industries:	
Live Fish Co.:		candy-----	10099
frozen rosefish fillets-----	10139	Narum, E. A.:	
Los Angeles Nut House:		shell eggs-----	10128
walnut meats-----	10179	Nashville Buttermilk Co., Inc.:	
Louisiana State Rice Milling Co.,		condensed buttermilk-----	10124
Inc.:		National Retailer-Owned Grocers,	
brewers rice-----	10081	Inc.:	
McGarry Nut Products, Ltd.:		enriched flour-----	10061
glace almonds-----	10174	Nebraska Consolidated Mills Co.:	
Major Vitamins, Inc.:		phosphated flour-----	10040
Major B-Complex Vitamin Tab-		self-rising flour-----	10040, 10052
lets-----	10195	Neosho Milling Co.:	
Mamma Mia Importing Co., Inc.:		corn meal-----	10017
edible oil-----	10181	New Orleans Confections:	
Mangels-Scheuermann & Oeters,		candy-----	10198
Inc.:		Noblesville Milling & Elevator	
brewers rice hulls-----	10083	Div. of Acme Evans Co.:	
Marchioretto, J., & Co.:		whole wheat flour-----	10059
rennet paste-----	10191	North Ontario Dried Fruit Co.:	
Marquart, Arthur C., & Co.:		raisin paste-----	10155
black raspberry puree-----	<sup>4</sup> 10156	Omar, Inc.:	
Maselas, J. G.:		flour-----	10031
bakery products-----	<sup>1</sup> 10007	Oskaloosa Produce Co.:	
Mason Canning Co.:		shell eggs-----	10127
canned beans-----	10159	Owens, Steve:	
Matthews, E. J.:		butter-----	<sup>2</sup> 10107
blueberries-----	10152	P & B Transfer & Storage Co.:	
Maxine Sandwich Co.:		sugar-----	10105
potato chips-----	10167	Pacific Fruit & Produce Co.:	
Merchants Supply Co.:		canned corn-----	10161
plain flour, self-rising flour, and		Packer Products Co.:	
phosphated flour-----	10044	dog food-----	10132
Metropolitan Pool Car Assoc.:		Peloian Packing Co.:	
filberts-----	10175	raisins-----	10146

<sup>1</sup>(10007) Permanent injunction issued. Contains findings of fact and conclusions of law.<sup>2</sup>(10094, 10107) Permanent injunction issued.<sup>4</sup>(10156) Contains decision denying claimant's motion that Food and Drug Administration supervise reconditioning of product for manufacture into jellies; also denying Government's motion to set aside portion of decree.

	N. J. No.		N. J. No.
Pennsylvania Baking Co.:		Shattuck Creamery:	
oyster crackers-----	10012	butter-----	10110
Pine Bluff Cotton Oil Mill. <i>See</i>		Shawnee Milling Co.:	
Armour & Co.		plain flour and self-rising flour--	10045
Potter-McCune Co.:		Simpson, G. G.:	
macaroni and noodle prod-		condensed buttermilk-----	10124
ucts-----	10065	Sorensen Creameries:	
Prats, C. L., Chili Co.:		butter-----	10116
chili pepper-----	10185, 10186	South Atlantic Canning Co.:	
peppers-----	10186	canned turnip greens-----	10172
Pretorius, Martin:		Sparger, G. W.:	
Vitoloids-----	10192	salad oil and salad dressing---	10182
Pretorius Approved Products.		Sparger, Puny:	
<i>See Pretorius, Martin.</i>		salad oil and salad dressing---	10182
Proctor Bros.:		Standard Candy Co.:	
blueberries-----	10148	candy-----	10095
Progressive Fillet Co.:		Stein-Hall Co., Inc.:	
frozen rosefish fillets-----	10140	rice flour-----	10055
Puleo, T.:		Stillman, F. E.:	
blueberries-----	10149	prepared mustard-----	10183
Puny's WOP Salad Dressing Co.:		Stock-Gro, Inc.:	
<i>See Sparger, G. W.</i>		Stock-Gro-----	10134
Puritan Food Products, Inc.:		Sunland Mfg. Co.:	
vegetable cocktail-----	10173	Victor Wheat Germ Oil-----	10200
Quaker Oats Co.:		Sunshine Macaroni Co.:	
corn meal-----	10020	macaroni-----	10068
enriched flour-----	10061	Supreme Rice Mill:	
ground oatmeal-----	10086	rice grits-----	10074
Railways Ice Co.:		Swisher Creamery, Inc.:	
butter-----	10109	butter-----	10111
Ralston Purina Co.:		T. & O. Sales Co. <i>See Owens,</i>	
Ry-Krisp Wafers-----	10013	Steve.	
Randall Wine Vinegar Co.:		Telling Belle Vernon Co.:	
vinegar-----	10157, 10158	black raspberry puree----- <sup>4</sup>	10156
Red-Ee Foods, Inc.:		Tobian, Louis, & Co.:	
corn bread mix-----	10085	cottonseed meal-----	10131
Reliable Nut Co.:		Trenton Milling Co.:	
salted peanuts-----	10177	self-rising flour and phosphated	
Riveredge Warehouse Corp.:		flour-----	10049
chicle-----	10188	Tyson Produce Co.:	
Roop Grocery Co.:		frozen whole eggs-----	10129
phosphated flour-----	10043	Vagim Packing Co.:	
Russell-Miller Milling Co.:		raisins-----	10145
barley grits-----	10072	Vineland Butter & Egg Corp.:	
Rye Products Co.:		butter-----	10116
Swedish Rye Brittle Bread---	10009	Vitamin Stores, Inc.:	
Saint Rose Dairy:		vitamin products-----	10193
Cheddar cheese-----	10118	Vitamineral Products Co.:	
Saladigo, Paul:		Viamineral Compound and Via	
blueberries-----	10147	D Mineral-----	10199
Santa Cruz Processors, Inc.:		Walgreen Co.:	
frozen smelts-----	10142	mayonnaise-----	10180
Scarpati, H.:		Warren Food Co.:	
blueberries-----	10151	mayonnaise-----	10180
Selby Poultry & Egg Co.:		Washington Doughnut Co. <i>See</i>	
frozen whole eggs-----	10130	Maselas, J. G.	
Sethness, C. O. & W. D., Co.:			
Esterex----- <sup>3</sup>	10001, 10002		

<sup>3</sup> (10001) Seizure contested. Contains findings of fact and conclusions of law.<sup>4</sup> (10156) Contains decision denying claimant's motion that Food and Drug Administration supervise reconditioning of product for manufacture into jellies; also denying Government's motion to set aside portion of decree.



	N. J. No.		N. J. No.
Washington Flour Mill:		Whaling City Fisheries:	
flour -----	10050	frozen hake fillets-----	10137
Wellington Creamery Co. See		Winchester Milling Co.:	
Owens, Steve.		corn meal-----	10015
Wells Brokerage & Distributing		Withers, W. J.:	
Co.:		canned spinach-----	10169
peanuts-----	10176	Yaquina Bay Fish Co.:	
Wernimont Popcorn Co.:		canned smoked shad-----	10136
popcorn-----	10089	Zausner, Meyer:	
		cream cheese with walnuts----	10121

